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SPEECHES,  
CONGRESSIONAL AND POLITICAL,

AND

OTHER WRITINGS,

OR

EX-GOVERNOR AARON V. BROWN,

OF TENNESSEE.

---

COLLECTED AND ARRANGED BY THE EDITORS OF THE UNION AND AMERICAN

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NASHVILLE, TENN.  
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1854.

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Mr. Sather

TO MMU  
AMERICAN

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## PREFACE.

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The object of the present publication, is to collect, into one volume, the principal speeches and writings of Gov. Brown, for better preservation by his friends, and for more easy access by all who, at any time, may wish to make reference to them.

They cover a space of many years, and embrace all the controverted questions of public policy, State and national, from the first canvass of General Jackson for the Presidency, to the present time. Their publication, we believe, will present the most condensed and accurate record of the party struggles of this State, any where to be met with, and must, therefore, prove an acceptable work to the public at large. To the younger politicians of both parties, who desire to be familiar with the past, as well as the present political history of the State, it must be invaluable.

THE EDITORS.



UNIV. OF  
CALIFORNIA,

## BIOGRAPHICAL SKETCH.

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**AARON V. BROWN**, late Governor of Tennessee, was born on the 15th of August, 1795, in the county of Brunswick, Virginia. His father, the Rev. Aaron Brown, enlisted, when not yet of lawful age, for three years in the Revolutionary army. He was in the battle of Trenton, and participated in that ever-memorable march through the Jerseys, where the course of the American army was known to the enemy by the blood of its bare-footed soldiery. He was also one of the sufferers in the encampment, at Valley Forge, during the severe winter of 1777-8, where disease, and famine, and nakedness, so often drew tears from the illustrious Washington. At the close of his term of service, he returned to the county of Brunswick, where he continued to reside for nearly forty years in the midst of those who had witnessed his early and patriotic career, respected and beloved by all as a faithful and useful minister of the gospel, of the Methodist persuasion; an upright civil magistrate, a staunch republican of the old Jefferson school, and an honest man. The subject of this memoir was the issue of his second marriage, with Elizabeth Melton, (corrupted from Milton,) of Northampton county, in the State of North Carolina.

Except in the simplest elements, Gov. Brown was educated in the last-mentioned State. He was sent when very young to Westrayville Academy, in the county of Nash, in order to be placed under the care of Mr. John Bobbitt, one of the best scholars and teachers of the time. After continuing here for two years, he was transferred, in the year 1812, to the University of North Carolina, at Chapel Hill. He graduated in this institution, in 1814, in a large class, of which Senator Mangum and ex-Governor Manley, of North Carolina were also members. The duty was assigned to him by the faculty, and confirmed by the trustees, of delivering the valedictory oration on commencement day, and the service was performed in a manner which produced the most striking impression on the large assembly then in attendance. The collegiate career of but few young men is marked by incidents of sufficient importance to be recited in a notice like this. Industry in preparing for and punctuality in attending at the hour of recitation, as well as the most cheerful conformity to the rules of the institution, were the most striking characteristics of his educational course.

Having finished his educational course, Gov. Brown returned to his parents, who in the previous year, had removed to the county of Giles, in the State of Tennessee. About the beginning of the year 1815, he commenced the study

of law in the office of the late Judge Trimble, in the town of Nashville. With this gentleman he continued to read for two years, and now often refers to him as one of the most systematic, able and upright men he ever knew. Having obtained a license, he opened an office in Nashville, and commenced practice in that city with the most flattering prospects of success. About this time, however, Alfred M. Harris, who was engaged in a very extensive practice in nearly all the southern counties of Middle Tennessee, accepted a place on the bench, and solicited Gov. Brown to remove to the county of Giles and close up his extensive business for him. The opportunity was inviting, and that being the residence of his now aged parents, he determined to settle in that county. Taking charge at once of an extensive practice, both civil and criminal, including the land litigation, then an important and almost distinctive branch of the profession, Gov. Brown found all the resources of his mind brought into immediate requisition. No time was to be lost in idleness —none to be devoted to pleasure. We remember that one of his maxims about this period was, "Always to be first at court, and never to leave it until the adjourning order was made." Under such habits it was no matter of surprise to those who observed them, that there were but few causes of importance in the counties in which he practised, in which he was not engaged.

In a few years after Gov. Brown commenced his career in Giles, the late President Polk commenced his in Columbia, in the adjoining county of Maury. They soon formed a partnership in their profession, thereby extending the field of their professional labors into more counties than they could have done without that arrangement. This partnership continued for several years, and until Mr. Polk engaged in his congressional career. Its dissolution brought no termination to that cordial friendship, personal and political, in which it had commenced, and which continued unabated until the death of the late lamented president. Gov. Brown continued engaged in his profession until the year 1839, when, having been elected to Congress, he gave it up altogether. Much of the time in which he was in regular and full practice he was also a member of one branch or the other of the state legislature. This service being near home, and the counties he represented being those in which he practised, produced no material impediment to the progress of his professional business. But the case was different in the distant service in the Congress of the United States.

Gov. Brown served as a senator, from the counties of Lincoln and Giles, at all the sessions of the legislature, regular and called, from 1821 to 1827, inclusive, except the session of 1825, when he was not a candidate. In the session of 1831 and 1832, he was the representative of the county of Giles in the other branch of the general assembly. His course was distinguished at all times, as a legislator for the state, for his determination to sustain an independent and able judiciary, and to build up an enlightened, liberal, and impartial system of jurisprudence in the state; and, we hazard nothing in saying, that, in searching through the statutes, one will find more laws of a general and permanent nature which emanated from him than from any one of the other public men of the state. He was longer in that service, and, by professional experience, may be presumed to have understood the defects of existing laws, and how to remedy them. Throughout his service in the legislature he evinced a strong dispo-

sition to diminish the number of offences which should be capitally punished. He did not propose or wish to *abolish* such punishments altogether, but only to reduce and limit them down to the smallest possible number of cases, consistent with the necessary self-defence of society against the aggressions of the lawless and abandoned. At the session of 1831-32, by the order of the judiciary committee, he prepared an elaborate and able report, which he submitted to the house, on the subject of capital punishments, which attracted great attention throughout the Union.

Gov. Brown first became a candidate for Congress in 1839. At two former elections the whigs had carried his district by majorities ranging from eleven to twelve hundred votes. His competitor, the Hon. E. J. Shields, had served in the two preceding Congresses. He was a gentleman of fine talents, and one of the most plausible and handsome debaters of his party. When the election came off, however, Gov. Brown was found not only to have overcome the large party majority against him, but to have overcome it by the immense majority of sixteen hundred and one votes. He was re-elected for the called session of Congress in 1841, without having any opposition. In 1843, the congressional district was altered so as greatly to diminish the democratic majority by which Gov. Brown had been usually elected in the old district. This induced hopes that he might possibly be beaten in the new one, and all the regular steps were taken to present a competitor in the person of the Hon. N. S. Brown, now minister to Russia. The result, however, demonstrated that the democracy of the new district, although not in so large a majority as in the old one, was nevertheless equally invincible.

During the period of his congressional service, beginning in 1839 and ending in 1845, Gov. Brown seems to have been an active member, taking a part in nearly all the great questions which came up during that eventful portion of our political history.

In May, 1840, he delivered a speech in reply to Mr. Bell, on the bill introduced by that gentleman, "to secure the freedom of elections." He also made a speech on the celebrated New-Jersey case, having been a member of the committee which reported on the same. His speech on the burning of the Caroline, to be found in the Congressional Globe and appendix of 1841, was listened to by the house with profound attention and emotion, and is regarded by his friends as one of his ablest efforts in Congress. He was a member of the committee which framed the tariff of 1842, and united with the minority in presenting a report against the principles and details of that measure. When the bill came up for discussion, Gov. Brown made a clear and powerful argument against it, opening the debate on the democratic side of the house. On the 4th of August, 1841, he delivered a speech against the fiscal bank bill, which occupied so large a portion of public solicitude at that time. He made speeches in 1844 on the remission of the fine imposed on Gen. Jackson at New-Orleans, and against receiving and reporting on abolition petitions; also, on the right of members elected by general ticket to their seats.

It was in December, 1844, that Gov. Brown found it necessary to reply to sundry speeches of Mr. Adams, made in Massachusetts, in relation to the negotiation of the Florida treaty. That reply having a direct reference to in-

cidents occurring in the congressional career of Gov. Brown, may be seen in the Daily Globe of December 14, 1844. A reply to Mr. Adams, on the Oregon bill, may be seen in the "Constitution" of January 29, 1845, and also a reply to another speech of Mr. Adams may be seen in the National Intelligencer of February 3, 1845.

On the 12th March, 1844, Gov. Brown, as chairman of the committee on territories, reported a bill to extend the civil and criminal jurisdiction of the several courts of the territory of Iowa over the territory of Oregon, and for other purposes. At the next session he reported another bill, organizing a territorial government for Oregon, which passed the house by a large majority, but was lost in the senate.

Governor Brown's service in Congress ended with the commencement of President Polk's administration. He declined any office under the administration, and determined to return home and devote himself to the education of his children and the management of his own private affairs. Before he reached home, however, he was nominated by the democratic party as its candidate for governor. He met the news of this nomination at Pittsburg, and hesitated many days whether he would accept it or not. It conflicted with all his purposes to retire to private life to accept it, and opened a wide field of labor with but little prospect of success. Mr. Polk had failed twice for the same office, and could not carry the state in his presidential race, under all the zeal and excitement which it created. Besides this, Mr. Polk, in organizing his administration, and selecting his friends for different offices, had withdrawn from the state some of the most influential and powerful members of the party. He himself, was gone, Hon. Cave Johnson was gone, General Robert Armstrong was gone, and several others whose weight had been always felt in state elections. Discouraging, however, as were the prospects, he finally determined to take the field against Col. Foster, a late senator, and one of the most popular and able men of the whig party. The discussion of the canvass turned chiefly on the tariff, the Texas and Oregon questions.

In this canvass Gov. Brown was elected by a majority of one thousand five hundred or one thousand six hundred; but in that of 1847, he was defeated by about half that number. For the last twelve years parties have been so nearly balanced in Tennessee that they have carried the state alternately against each other. The one last defeated brings to the polls at the next election a little more zeal and determination to retrieve their last misfortune, and are therefore very apt to prove triumphant.

In the next year, 1848, Gov. Brown was a candidate for elector for the state at large, and canvassed it with great vigor, sustaining and even surpassing the reputation which he had previously acquired.

In 1850, he was a member of the Southern Convention held at Nashville. He concurred fully in the *resolutions* passed at the first session of that body, but dissented from and protested against the *address*. At the second session of that body in November following, Gov. Brown dissented altogether from the report submitted by the committee on resolutions; and, to exhibit his own views and those of the democracy of the state, prepared what was called and known as the Tennessee Platform, which, after being submitted to the delega-

tion of the state and being approved by them, was by their order submitted by General Pillow to the convention. His whole course at both sessions was eminently conservative. At neither session, and at no stage of the slavery agitation, would he hear or think of a dissolution of the Union. He considered secession or a dissolution of the Union as no remedy for alleged grievances.— His favorite remedy against the whole series of aggressions was *retaliation*, as set forth in the Tennessee Platform. This he believed would soon exhibit to the North a greater power to injure them than they have had to injure the South; and that, upon the simple principle of self-interest, both sections would presently cease the profitless controversy.

The last public station which Gov. Brown has occupied was that of a delegate from the state at large in the late Baltimore convention. He introduced a very important resolution into that body, raising a committee of one from each state, to be appointed by the delegates from each state, to whom all resolutions relative to the principles or platform of the democratic party should be referred without debate. The importance of such a reference, *without debate*, was instantly perceived, and the resolution was adopted. He was unanimously appointed the chairman, and subsequently reported the platform, which has given such general satisfaction to his party in every portion of the United States. Gov. Brown has reason to be proud of the concurrence of his party in the platforms which, at different times, he has prepared for them. He was the author of the Tennessee platform in the Southern Convention. He prepared and presented the platform which was unanimously sanctioned in the convention at Nashville, on which the last gubernatorial battle was fought in Tennessee; and that he had the honor assigned to him of reporting the national platform of democratic principles at the late convention was highly gratifying to his numerous friends.



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## PART I.

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### CONGRESSIONAL SPEECHES.

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## S P E E C H.

*On the Bill introduced by Mr. Bell, to Secure the Freedom of Elections, and to provide for the Faithful Administration of the Executive Patronage. House of Representatives, May 19th and 20th, 1840.*

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Mr. Brown having obtained the floor, said:

He had listened with profound attention to the arguments of both his colleagues (Mr. GENTRY and Mr. BELL,) in favor of this bill. He had done so, because he was desirous to know on what new statement of facts, or by what new process of reasoning, this odious measure was now to be revived, and again pressed on the consideration of the public, after its signal failure in the other end of the Capitol, and after that deep and decided reprobation of it which had been manifested in so many of the elections of this country. He was particularly anxious to discover whether misfortunes had not subdued, or at least chastened and softened down, some of those fierce and angry passions with which it was first advocated; misfortunes that have fallen with peculiar force on those gentlemen's own personal and political friends. One of them (Mr. BELL,) a few weeks since, on the Cumberland road bill, gave us a most touching and eloquent description of those misfortunes. "He had seen (said he,) during the last summer, one friend after another dropping around him," until that proud and exulting majority by which he used to be surrounded on this floor from his own State, was now sadly reduced to a solitary unit. Looking at the other end of the Capitol, he might have told us that this mortality among his friends had been still greater; there, nothing was to be met with but one entire and perfect scene of desolation and defeat. Sir (said Mr. Brown,) I was anxious

walk forth amid the  
contributed to spread  
a contemplation of them  
and finally to abandon  
such fatal results.  
what many persons have  
they fail to reform, are  
not even the dispensations of  
proved, often superadd to our  
deeper into those vices and  
lead to reform.

in observations as these to the  
in this House. I have had fre-  
e to approve, but even to applaud, his  
argument, during the disorders and  
But, sir, I do mean to say, that, on  
and its kindred ones, the gentleman  
its equanimity of temper, and to expose  
of being governed more by the sug-  
than guided by the dictates of reason, or  
of opinion. In much of that argument  
to reply, the gentleman seemed determined  
ever, in bold denunciation, in reckless invective,  
declamation. He seemed to imagine that  
Democracy into its last fortress, and that he was  
a bold and heroic charge, that was to demolish it  
to use his more sanguinary mode of expression,  
aking a deadly blow at the life-blood of the party  
a corrupt, and infamous party which had so long  
destinies of this country." But, sir, the democratic  
the country was not let off with even such denuncia-  
tions. The gentleman (Mr. BELL,) became so far trans-  
to compare it to that fabled monster, the Parisian vam-  
that subsisted "by sucking the blood from the warm and beat-  
arteries of sleeping innocence." He described the end and  
construction of that unnatural monster, and declared that he  
saw in that end the writhing and expiring contortions of  
a putrid and bloated carcass of democracy. Sir, I allude  
to these references in the speech of my honorable colleague,

in order to assure him that, in my humble judgment, great as are his powers of description and comparison, no one but himself could see the slightest resemblance in this imaginary picture. No. If you wish to see a resemblance of that Parisian monster, go find it in that proud and bloated aristocracy that has so long fed and fattened on the people of this country. Go find it in that system of associated wealth and exclusive privilege, in all its odious forms and varieties, which has been so long consuming our substance, and which is now beginning to crumble beneath its own magnitude, and to expire in the midst of its own rottenness and corruption.

But, Mr. Speaker, I do not mean to content myself with making general observations like these against the present bill. It was introduced originally about three years ago, notoriously with the view of breaking down the Democratic party of the Union. But more especially was it intended to break down the Jackson or Democratic party in the State of Tennessee. It is now revived evidently for the same purpose, and was pressed upon this House in a tone of exultation and defiance which seemed at the time as though it was intended to provoke and challenge a reply. Sir, I do not feel especially called on to repel attacks made against the Democratic party generally. I have no connexion with that party sufficiently notorious to justify me in presuming to become her champion. In my own State, however, that connexion is not quite so obscure and unknown. Although never aspiring to be one of her leaders, I have been for twenty years enrolled among her most zealous and faithful private soldiers. If I seem now for the moment to step out from her lines, and to take position above that of a mere private, it is only because *those who used* to bear her banner high and proudly amid the ranks of her enemies, have now not only *surrendered* that banner into the hands of her enemies, but are foremost in the onslaught and loudest in the battle-cry against her!

Let us now turn our attention to the provisions of this bill, the end and aim of which are avowed to be the destruction of the present Democratic party of the United States—that party which the gentleman was pleased to denounce in his speech on

the Cumberland road bill to be "a standing fraud and imposition on this country."

I begin, sir, with its caption: "A bill to secure the freedom of elections." The elections of the people of the United States; all the elections, State and Federal, in all the States. The *freedom* of the elections of the United States! Sir, you have but to state the proposition, in any company, in any State or county in this Union, to raise the smile of derision at its absurdity. What! our elections *not free* enough in this country, where every man goes forward to the polls of his own accord, and casts his vote for whom he pleases! goes in his own unquestioned and unquestionable majesty, asking no man's *permission*, and submitting to no limitation or restriction on his rights whatsoever! How *can* you secure more freedom to us in elections than we now enjoy? How *can* you better secure, *by law*, that freedom which has been for more than fifty years secured to us by the Constitution? Sir, it is like substituting statutory freedom for constitutional freedom. It is a good deal like what the advocates of this bill call "the purity of the elective franchise." Not that purity which is felt and preserved in the hearts of the honest citizens of this country; not that virtue which, emanating from the heart, controls and governs the conduct of the people in administering their own government in their own way, and for their own advantage and prosperity; but a sort of pretended *legal* purity; a sort of hypocritical *statutory* virtue, which would yield to all sorts of political prostitutions on the first seducing bribe that might be laid in its way. Away with these forms and shadows; if the people have not purity and virtue enough (as the high toned Federalists have always said they had not,) to govern themselves, you can never infuse those qualities into them by any process of the law. So much for the *caption* of this bill. I call your attention now to the *preamble* or recitals of it. The first one of these recitals is the following:

"Whereas, complaints are made that officers of the United States, or persons holding offices or employments under the authority of the same, other than the heads of the chief Executive Departments, or such officers as stand in the relation of constitutional advisers of the President, have been removed from office or dismissed from their employment upon *political* grounds, or for opinion's sake; and whereas, such a practice is manifestly a violation of the

freedom of elections, an attack upon the public liberty, and a high ~~misdemeanor~~."

Here, sir, is a preamble, for which there is no proposed enactment. It alleges certain conduct to be a high misdemeanor, yet proposes no penalty or punishment for the crime. Why, then, is it intruded here on this paper? Sir, I take it to be a perfect anomaly; a thing unknown before in the history of legislation. I again demand to know why it is put down in the preamble, but not inserted in the enacting clause of the bill? I can draw but one conclusion from this strange fact, and that is, that the doctrine will do to *profess* but not to *practice*; to show off a speech upon, in order to excite popular feelings, but not to be established as one of the laws of the land, which it is known would have to be repealed so soon as its operation was seen and understood. I mean to examine this dangling supernumerary presently to show that the arguments in its favor are all fallacious, and the facts on which it purports to be based have no existence. I pass on to the second clause of the preamble, in the following words:

"Whereas, complaints are also made that officers of the United States, or persons holding offices or employments under the authority of the same, are in the habit of *intermeddling* in elections, both State and Federal, otherwise than by giving their votes; and whereas, such a practice is a violation of the freedom of elections, and a gross abuse, which ought to be discountenanced by the appointing power, and prohibited by law."

"*Be it enacted, &c.*, That, from and after the first day of July next, *no officer*, agent, or contractor, or other person holding an office, or employment of trust or profit under the Constitution and laws of the United States, shall, by the contribution of money or other valuable thing, or by the use of the franking privilege, or the abuse of any other official privilege or function, or by threats and menaces, or in any other manner, *intermeddle* with the election of any member or members of either House of Congress, or of the President or Vice President of the United States, or of the Governor or other officer of any State, or of any member or members of the Legislature of any State; and every such officer or other person offending therein, shall be held to be guilty of a high misdemeanor; and on conviction in any court of the United States, having jurisdiction thereof, shall pay a fine not exceeding one thousand dollars."

This is the first section of the bill. According to its provisions, it will be seen that every grade of office and every variety of employment, under the United States, is included; also, that every thing and any thing said or done by them (except

simply giving in their own votes) is to be taken as an intermeddling in the election, and therefore to be punished by a fine not exceeding one thousand dollars. Now, sir, the application of this law to my own State is what I desire to bring before the House. There, sir, we have but few public officers of any grade, except our postmasters; we have some half dozen of these, on an average, in each county. Those at our county towns commonly receive some two or three hundred dollars—rarely so much as five hundred. At the lesser villages and country stores, and at the neighborhood post-offices, it is quite frequent that the compensation does not amount to fifty or one hundred dollars. The office is in fact taken as an encumbrance, submitted to for neighborhood convenience. Now, sir, all these postmasters, beside being *officers* of the United States, are *citizens* of the United States and of the State of Tennessee. They are deeply interested as *citizens* in the elections, both State and Federal; in the county elections of sheriffs, clerks, registers, &c.; in the military elections of those officers, under whom they may have to serve in times of war. Yet, sir, it is proposed that a little fifty-dollar appointment as *postmaster* is to weigh down all his other interest as a citizen; and, if he dare open his mouth in favor of one candidate or the other, he is to be instantly fined one thousand dollars. If called on to state *a fact* in his own knowledge, and perhaps in the knowledge of nobody else, which it is of the highest consequence to the country should be known—a fact which became known to him long before he was a postmaster—he must *conceal* that fact; he must suppress and hide the *truth* from his countrymen, or pay down the penalty of one thousand dollars. Sir, is this my colleague's notions of the liberty, freedom and purity of our elections? To speak out *will* affect the elections just as far as truth and character *will* and ought to affect them; to seal up his lips and suppress the truth *will also* affect the election, and put men into office who have no honesty in civil affairs, nor courage nor skill for the defence of the country in military appointments. Now, sir, there are, on an average for each county in Tennessee, a half-dozen of our fellow-citizens who have the common rights of citizens; they have the liberty of speech under all the guarantees of the Constitution; they have, however,

undertaken to perform the duties of postmasters for their respective villages and neighborhoods; and for this they are to be disfranchised, deprived of the liberty of speech, and compelled to stand silent and gagged in the midst of their fellow-citizens. *Sir, is this the freedom* after which my colleague has been seeking under this bill? If it is, God forbid that he should ever find it. For one, I repudiate and scorn such distinctions in a free country. I repudiate and scorn a principle that sets one neighbor as a spy over another, and which enables one man to propagate the vilest falsehood on another, because his exposure can only be made by a postmaster, whose lips are hermetically sealed under the enormous penalty of one thousand dollars. Sir, this bill should be rather called a bill offering a premium to falsehood and defamation; a bill to enslave a large portion of American freemen, because they are willing to undertake the performance of high and necessary public duties; a bill to establish slavery in all our elections, by depriving one portion of the community of those rights and privileges allowed to all the rest. Sir, I shall show you presently that those illustrious sages and patriots, who lived in the earlier and purer days of the Republic, rejected with scorn the very provisions of the bill now under consideration. Before I present their opinions on this branch of the subject, let me advert to the arguments and doctrines of my honorable colleague in relation to the appointing and removing power of the Executive; remember that the argument of the gentleman was made on the preamble of his bill, for which there was no corresponding prohibitory or penal enactment. The argument then, like the preamble, might therefore be regarded as a mere abstraction, calculated to do no particular good nor harm any way. But I know my honorable colleague too well not to understand that all the labor he has bestowed in ascertaining the opinion of Washington, Jefferson, Madison, and other illustrious individuals, is not intended to be lost as a mere abstraction, accidentally brought up in the course of this discussion. No, sir, that portion of the gentleman's argument will no doubt, in due season, make its appearance in the Whig papers of our State in blazing capitals. Well, sir, and what *were* the opinions of those illustrious men on the question of appointments

to office, which necessarily includes also their opinions in relation to removals wherever the right to remove has been conceded.

I begin with Gen. Washington. In his letter to Mr. Pickering, dated September, 1795; he uses the following emphatic language: "I shall not, while I have the honor to administer the Government, bring a man into any office of consequence, knowingly, whose *political* tenets are adverse to the measures which the General Government are pursuing; for this, in my opinion, would be a sort of political suicide: that it would embarrass its movements is most certain. But of two men equally well affected to the true interest of their country, of equal abilities, it is the part of prudence to give the preference to him against whom the least clamor can be excited." Observe, sir, that in this opinion of Gen. Washington, he makes no reference to monarchist, or to persons opposed to that Revolution which secured to us our national independence. He goes beyond all this, and speaks of *political* tenets adverse to the measures of the General Government. This preamble recites that removals *on political grounds* are high misdemeanors. Gen. Washington declares that a difference in *political tenets* is sufficient grounds for refusing appointments. This preamble recites that removals upon political grounds is an attack on public liberty. Gen. Washington declares, that appointments to office of such as hold political tenets adverse to the principles of his administration of the Government, would be a sort of political suicide. Sir, this brief parallel between this recital in the bill and the opinions of Gen. Washington, directly on the point, ought for ever to seal the fate of this proposition, so far as his distinguished authority is concerned.

Immediately after the retirement of Gen. Washington, a contest sprung up for the succession between the elder Adams and Mr. Jefferson. The elements of party, before that time, had taken no definite form, or shape; they were "*rudis indigestaque moles.*" In that contest, however, they became settled and distinct. The Federalists adhered to Mr. Adams; the Republicans to Mr. Jefferson. Mr. Adams succeeded, and under him, the Federalists took possession of nearly every office of

his administration. In support of this fact, I refer to the 3d volume of Mr. Jefferson's works, page 476. In his celebrated New Haven letter he remarks, "It would have been to me a circumstance of great relief, had I found a *moderate* participation of office in the hands of the majority; I would gladly have left to time and accident to raise them to their just share; but *their total exclusion* calls for prompter corrections." In his letter to Levi Lincoln, 3d volume, page 477, he remarks: "I had foreseen, years ago, that the first Republican President who should come into office *after all the places in the Government* had become *exclusively* occupied by Federalists, would have a dreadful operation to perform; that the Republicans would consent to a continuation of *every* thing in Federal hands was not to be expected, because neither just nor politic. On him was then to devolve the office of an executioner—that of lopping off."

I read these extracts now only to establish the fact of *a total exclusion* from office of the Republicans under the elder Adams's administration. Mr. Jefferson succeeded Mr. Adams. He was elected by the Republican party, and was its great apostle and founder. The lapse of years has only thrown a holier reverence around his name, and the political researches of the age have only given a brighter lustre to the principles of simplicity, economy, and equality, which he inculcated on his followers. Sir, it is that hallowed reverence for his name and his principles, which is yet cherished by a large proportion of the American people, that my colleague attempts now to make subservient to the destruction of his true friends and followers, and to strengthen the reviving energies of that old Federal party which he so signally vanquished in 1801. Yes, sir, strange as it may seem, the watchword of "Jefferson and liberty" is now being stolen by that very Federal party into whose ranks it once carried dismay and terror and destruction. What has any party to do with that watchword that holds in its rank and hugs to its bosom every anti-war Federalist on this floor, save one whose reformation dates back for twenty years, and whose devotion to Republican principles, during all that time, gives double assurance of the sincerity and thoroughness of his reformation? What, I repeat, has an Essex-junto

man, and an anti-war Federalist, to do with the watchword of "Jefferson and liberty?" It should blister the tongue that repeats it, and crimson with shame all who concur in the profanation. Sir, I have reached the point where I mean to give battle to my honorable colleague. "War to the knife," if he may choose to have it so. He maintains that Gen. Jackson's administration, and that of Mr. Van Buren, was not, and is not, Jeffersonian in its character; or, in other words, that General Jackson and Mr. Van Buren are not "Democrats of the Jeffersonian school," because they have both outraged the principles of Mr. Jefferson in making appointments and removals from office: that they have proscribed men for opinion's sake, and ejected them from office against all the principles and practices of that great apostle of liberty. I not only deny these assertions, but I here undertake to disprove them altogether.

Sir, I repeat, for greater perspicuity, that I now here undertake to show that both General Jackson's and Mr. Van Buren's administrations have been far less proscriptive than Mr. Jefferson's was. That great man's principles and practices, on the subject of appointments and removals, have been extensively misunderstood, because they have been misrepresented. I now refer to his own letters for proof of his true doctrine.

He came into office on the 4th of March, 1801. All the offices of the Government were in the hands of the Federalists. That whole party, with a furious desperation, then, if not yet, unequalled in the annals of political warfare, resisted his election. The Republicans, however, taunted as they were as "greasy Democrats," derided, then as now, with being but as the rabble of the nation, bore him onward, until they placed him in the highest office in the gift of a free people. Intalled into office, the question instantly arose, what course he would pursue in making appointments and removals from office. The whole Federal party had denounced *him*: would he now denounce *them*? The question was soon solved. He drew a distinction between Federalists. 1. The Federalist proper. 2. Those who were called Federalists, but, in fact, were Republicans in principle, but who had been *deceived* and so made to act with the Federalists, while *at heart*, they were sound Republicans. The first class or Federalist proper, he rejected on

all occasions, turning them out, without exception and without ceremony. They were monarchist in principle, and were, therefore, not proper agents under him, to carry out and perpetuate our Republican institutions. The second class (the Federal sect of Republicans, as he termed them) he permitted to participate in the offices, *to a certain degree*. To show that I have stated Mr. Jefferson's principles with entire and perfect accuracy, I will read from his letter to Mr. Lincoln, dated July 11, 1801 :

" DEAR SIR : Your favor of the 15th came to hand on the 25th June, and conveyed a great deal of that information which I am anxious to receive. The consolidation of our fellow-citizens in general, is the great object we ought to keep in view ; and that being once obtained, while we associate with us in affairs to a certain degree, the Federal sect of Republicans, *we must strip* of all the means of influence, the Essex-Junto and their associate monarchists in every part of the Union. The former differ from us only in the shades of power to be given to the Executive, being with us attached to Republican government. The latter wish to sap the republic by fraud, if they cannot destroy it by force, and to erect an English monarchy in its place ; some of them (as Mr. Adams) thinking its corrupt parts should be cleansed away, others (as Mr. Hamilton) thinking that would make it an impracticable machine. We are proceeding gradually in the regeneration of offices and introducing Republicans to some share in them. I do not know that it will be pushed farther than was settled before you went away, except as to Essex men. I must ask you to make out a list of those in office in yours, and the neighboring States, and to furnish me with it. There is a little of this spirit south of the Hudson. I understand that J\*\*\*\*\* is a very determined one, though in private life amiable and honorable ; but amiable monarchists are not safe subjects of Republican confidence. \* \* \* \* \* Our gradual reformations seem to produce good effects everywhere except in Connecticut. Their late session of the Legislature has been more intolerant than all others. *We must meet them with equal intolerance.* When they will give a share in the State offices, they shall be replaced in a share of the general offices. *Till then we must follow their example.*"

To what degree of participation in the offices, Mr. Jefferson admitted the second class of Federalist, may be seen in his letter of the 11th September, 1804, to Mr. Adams, in which he states, that they were admitted *in fair proportion* to their number throughout the United States. Sir, I have now spread out before you, as on a map, the opinion and practices of Jefferson. They admit of no cavil and no misunderstanding. Now

I demand to know when and where—in what year of his administration or in what State of this Union—was General Jackson more intolerant than Mr. Jefferson? When did he say “We must meet them with equal intolerance?” When did he say to those States who were most opposed to him, and who proscribed all his friends from office, “Until you will give a share in the State offices, *we will follow your example?*” Never, never! In my own State, there never was a day or an hour, during his administration, that General Jackson did not retain a greater number of his enemies in office than they would have borne to the number of anti-Jackson men in that State; and yet, sir, we are told that General Jackson exceeded Mr. Jefferson in intolerance toward his enemies!

How does the same question now stand under the present Administration? Throughout the United States I do verily believe that a majority of the office-holders have been and still are opposed to Mr. Van Buren. The very best estimates that have been made show the fact satisfactorily to every impartial mind. Does this look like proscription for opinion’s sake? In my own state the fact has never been denied. In my own district, three out of the five postmasters of the county towns which I represent, are thorough-going Whigs: active, zealous partisans. Some of them made heavy bets against the candidates of the Administration in the last elections. They attended public assemblies out of their respective neighborhoods, and exerted all the influence they possessed in the election. Sir, let me assure my honorable colleague, that if his bill had passed before the last Tennessee elections, it would have cut right and left among his Whig friends in that State. Instead of dealing a deadly blow “on the life-blood of the party there,” it would, have rebounded on the heads of his own friends.

But it is often said, while Mr. Van Buren may have retained an equal number of his enemies in office, it has only been in the *inferior ones*, such as postmasters. Sir, a postmaster is very far from being an *inferior* appointment, so far as political results are to be attained. It is, in my judgment, to precisely such officers that General Washington alluded, when he declared he would appoint no person to any office of *consequence*, who was opposed to the principles

of his administration of the Government. It is through the postoffices that the press exerts its mighty power on the public mind. Every postmaster has it in his power, more or less, to paralyze its exertion, by suppressing public documents; or, if he dare not go so far as that, by laying them away upon some dusty shelf, and not handing them out to the people, until regularly and distinctly demanded. On the contrary, a willing postmaster, favorable to the views of one party, may hail his fellow-citizens as they pass, and notify them that letters and packages have arrived at the office, addressed to them, and thus give them a wide and instantaneous circulation. If any man desires to be convinced of all this, let him but examine and inquire at the postoffices after the adjournment of the present session, and see, at some of them, what heaps of letters and documents will remain piled up and undistributed for weeks and perhaps months after their arrival. I mean to look into this practice on my return, and no instance of partiality, such as I am commenting upon, shall go unrebuked. I assure my honorable colleague that even the biography of General Harrison, and the speeches of the gentleman from North Carolina (Mr. STANLY,) with which he has been deluging my district, shall be faithfully and impartially distributed. So far, therefore, as political results are concerned, your postmaster is an officer of the *highest consequence*; and it is, therefore, the best proof of liberality and toleration, that Mr. Van Buren and General Jackson *could* have given, to have let in their enemies into an equal if not greater participation in them. A liberality greater than Washington's, or Jefferson's, or any other President's, unless it may be that of Mr. Monroe.

Sir, I have not yet said anything in relation to the opinions of Mr. Madison. My honorable colleague was pleased to hold *him* up as a most perfect model of a great statesman, whose opinions should make a deep and lasting impression on his countrymen. I concur with him in his high eulogy on that illustrious patriot. Reared in Virginia, that mother of so many presidents, I was early taught, next to that of Washington, to revere the names of Madison and of Jefferson. Then, as now, I paid no homage to the opinions of one which was not paid equally to those of the other. Then, as now, I regarded them

as two bright but equal luminaries, by whose light it will be safe, at all times, for their countrymen to walk. I now invite my honorable colleague to test his bill by the lights of Mr. Madison's opinions. My honorable colleague has, no doubt, often consoled himself with the belief that he stood foremost of all others, in discovering this favorite remedy for preserving the purity, and securing the freedom, of elections! But what will be his surprise when I inform him that this same gag remedy was discovered and proposed almost fifty years ago; actually discovered and proposed almost fifty years ago! Yes, sir, there were "Surgeon Crittendens" then as well as now! But they were then, as now, pronounced mere empirics; and their quack remedies, rejected and condemned, as they now are; rejected and condemned by Mr. Madison himself, that favorite authority to which the gentleman referred, and on which he so confidently relied. Dropping all figures of speech, I will now give you the recorded opinions of Mr. Madison. I read from Dunlap's Daily Advertiser of January 22, 1791:

"*HOUSE OF REPRESENTATIVES, January 22, 1791.*—Excise bill was under discussion; Mr. Jackson [I think of Georgia] moved to amend the bill by inserting the following:

"*And be it further enacted,* That if any inspector or other officer, or person concerned in the collection of the revenue to be raised by this act, shall by any message or writing, or in any other manner, persuade or endeavor to persuade, any elector to give, or dissuade, or endeavor to dissuade, any from giving his vote in the choice of any person to be a member of the House of Representatives, member of the Senate, or President of the United States, such inspector, or other person so offending, shall be forever disabled from holding an office under this act, and shall be subject to a penalty of —— dollars."

The vote was taken by ayes and noes—ayes 21, noes 37: Mr. Madison and the celebrated republican, Wm. B. Giles, voting in the negative. Sir, here was the first gag bill ever offered in America. It was confined to those officers concerned in the collection of the revenue, and prohibited an interference only in the election of certain officers in the Federal Government, and yet it was rejected by a majority of nearly two to one, and by the votes of both Mr. Madison and Mr. Giles, two of the soundest republicans that ever lived in this country. Where now, let me ask, is the boasted authority of Mr. Madison

in favor of this bill? It stands recorded against it, on a bill much less objectionable than the one now proposed by my honorable colleague.

[Mr. BELL, here rose and said that he wished it to be understood by the gentleman and the House, that he would have voted against the amendment himself.]

Mr. BROWN replied, then he apprehended he need not spend so much time against the gentleman's bill, since he began to suspect that when it might come to the test he did not mean to vote for it himself. But how can the authority of Mr. Madison be invoked in favor of this bill, when it is known that it was his giant arm that dealt the blows that terminated the existence of the alien and sedition laws: The great principle that pervaded the sedition law is the same as in this bill. That bill punished all those who should utter or publish anything defamatory *against* our rulers; this punishes all who shall intermeddle in elections, either *for* or *against* our rulers; not those only who are, but those who desire and offer to become our rulers; not in a few of the higher departments, but in all of them, both State and federal, civil and military. That punished *all* offending citizens, *this* only such as have superadded to the duties of citizenship those of official station. That was, indeed, less odious than the present bill. There the truth could be given in evidence in order to shield the citizen from punishment; here truth has no advocate, and innocence finds no protection; true or false, one single word, uttered in an election more favorable to one party than the other, shall subject the citizen to the enormous fine of one thousand dollars. He may have expressed an opinion unfavorable to his own party; he may have only insisted on the superior qualifications of one candidate over those of another; or he may have only urged some gallant achievement in war or some noble self-denying deed in time of peace, as a consideration which entitled one party to the gratitude of the country over his competitor and rival. But I need not compare the relative merits of the present bill and the sedition law. The same spirit animates them both—a spirit that seeks to prostrate the dearest rights and privileges of the people—a spirit that alike destroys the freedom of the press and the liberty of speech—a spirit which Mr. Madison

more than any other man then living contributed to subdue and to extirpate. Sir, I challenge casuistry itself to draw any sensible and clear distinction between the sedition law, Mr. Crittenden's bill, and the bill of my honorable colleague. They all contain the same principle, and that principle stands at open war with those great provisions of the Constitution which secure to the people the freedom of the press and the liberty of speech.

From 1791 to 1837, with the exception of the alien and sedition laws, no attempt was made to force such legislation as this on the country. During that long period the people were contented that every citizen, whether a public officer or not, should enjoy his constitutional rights. That the assumption of office was but the assumption of new duties and liabilities for the public good, and should, therefore, be attended with no sacrifice or destruction of his personal rights as a free citizen of this great republic. During all this time, I maintain that our elections—all of them—both State and federal, were eminently free: free as they could be—free as the air we breathe and the water we drink. Everywhere through this wide country, on our election days, every American citizen walked forth to the ballot-box in his own personal majesty, paying no homage, save to himself and the laws and the Constitution. I appeal to the history of our elections in the great contest between the elder Adams and Mr. Jefferson; to the no less excited canvass between the 2d Adams and Gen. Jackson; to the contest between Mr. Clay, the now "great discarded," and General Jackson; in fine to every one of our elections, to show that all of them, every where, have been as free as our glorious Constitution, and the proud, indomitable spirit of our countrymen could make them.

What occasion, then, was there for the revival of this twice-repudiated doctrine of abridging the privileges of the people—repudiated by the wisest and best men that ever lived in any age or in any country? The first reason given, and the one most relied upon, is, that the President in office may use his patronage so as to give him an undue advantage over all competitors. This patronage consists in the power of making appointments under the express, or implied understanding,

that the appointee shall use his influence to promote the election of the President. Now, if all this were conceded, does not my colleague perceive that the appropriate remedy would have to be found, not in a gag bill, but in the amendment of the Constitution, changing the appointing power into other hands, or limiting the period of presidential service to a single term of four or six years? By the last amendment, no contest ever could take place between the ins and the outs. It would then be, in every instance, not who should be put out, but who should be put into the presidential seat. Then, sir, there could be no selfish motive prompting to an abuse of Executive patronage; nor any adequate one for charging corruption and ambition on any man who was faithfully endeavoring honestly to administer the Government. It was under these views that I have already submitted a proposition to amend the Constitution of the United States, in a way that will, in my opinion, be the true and proper remedy for all complaints, real and pretended, against Executive patronage and dictation. I shall call it up in a few days, and see what course the gentleman and his friends will take on this subject: But, sir, in the meantime, I hesitate not to say, that this patronage is greatly overrated, as to its influence on elections. On an average, the President cannot make more than a dozen or two important appointments in each State; these could not produce even a ripple on the broad and mighty surface of its population; beside this, an over-active zeal never fails to weaken the cause it espouses.

The influence of office-holders is more than counterbalanced by that of office-seekers. Let us examine it, first as to the personal exertions of the parties themselves. Mr. Van Buren since March, 1837, has been in. Mr. Clay, Mr. Webster, and General Harrison, have all wanted to get in by putting Mr. Van Buren out. Mr. Webster makes his electioneering tour through the northwest; Mr. Clay moves out upon the north, and arrogantly traverses Mr. Van Buren's own country. Gen. Harrison takes charge of the mighty West, keeping up a brisk correspondence, remodeling his old political opinions, and putting himself in as acceptable a position as possible between the contending parties of the day. Sir, do you not see at once that, on the score of personal exertions, it is precisely three to one in favor of the

outs? But it is said that the President in office has so much patronage, so many offices to bestow, that it gives him an overwhelming advantage over all competitors. Well, let us pause and examine the weight of this objection. He can appoint one Secretary of State, and that *one* will have to work against three Secretaries *expectant* without—that is, against Mr. Clay's Secretary, Mr. Webster's Secretary, and General Harrison's Secretary—three to one again—and so of the Secretary of War, and all the other secretaries; and, in fact, of all the other officers and agents of the Government, great and small. I have always doubted whether this power of conferring office was much calculated to advance the popularity of a President. Many are always expecting to be called, while but few can actually be chosen. The disappointed often fall back into a state of indifference as to the future success of the President, and sometimes find revenge for his supposed neglect and ingratitude in the open abandonment and denunciation of him. Sir, I do not pause in the line of this argument to give you instances of this sort during the period of General Jackson's administration; they abounded to an extent which few have suspected; they have no doubt abounded more or less in the history of every administration.

Mr. Speaker, I have already stated that, for nearly half a century, the people of the United States were contented and satisfied with the unbounded and unquestioned freedom of their elections. What occasion was there, then, for the revival of this twice rejected proposition? twice rejected, at the time of introduction, by my honorable colleague, in 1837. Sir, I remember well the *pretext* then offered for its revival. It was the alleged dictation of General Jackson—his dictation in writing his Gwinn and Shelbyville letters, and expressing himself freely and fully on the public men and the public measures of the day. These, sir, were the *pretexts* for all this cry of *dictation* and of bringing Executive patronage to bear on the freedom of elections. And yet, sir, now that the occasion has gone by—now that the smoke of party contest has cleared up, so far as General Jackson is concerned, no man can be found who can lay his finger on a single line or sentence, ever written by General Jackson about those times, that has the slightest resemblance to dictation to

his countrymen. To dictate, is to suggest, to point out *with authority*, and is nearly synonymous with command. It is something much stronger than mere counsel or advice, and yet is a shade lower than an imperative order. In the light of this definition, I defy any man living to show me a single expression in the Gwinn letter which evinces the slightest wish on the part of General Jackson to dictate—to order or command his countrymen what course to pursue in the selection of his successor. General Jackson was the acknowledged head of the Republican party; he saw the dangers which surrounded it; he knew well the numerous and powerful enemies that were engaged to overthrow and destroy it; he knew well its strength and power and invincibility, so long as it should remain *undivided*. When Judge White was brought forward, he instantly perceived the dangers of division, and wrote his Gwinn letter of *counsel and advice*, but not of dictation; a letter expressive of no preference of Mr. Van Buren over Judge White; a letter exhorting only to unanimity, and pointing out, in his judgment, the best means of attaining it. Yet, for doing this, he was denounced by my colleague and his party as a tyrant, a despot, and dictator. Yes, sir, for writing such a letter as this, that man, whose whole life had been one continued scene of noble and gallant daring in defence of his country, was denounced as a Roman dictator—ready and resolved to overturn those very liberties which he would have died to maintain. Sir, the advice and counsel of General Jackson on that occasion might by many have been considered injudicious, or even indelicate, according to the taste and fancy of individuals. But I maintain, before my countrymen and the world, that the charge of dictation, so loudly and repeatedly made by my colleague and his party, is no where sustained by that letter.

But this unfounded charge of dictation is sometimes attempted to be sustained by a reference to his Shelbyville letter; a letter written in reply to an invitation to partake of a public dinner proposed to be given to him by the noble-hearted Democracy of Bedford county. He declined attending; alluded to the recent and frequent political tergiversations which had occurred, but prophesied boldly that the people of Tennessee, in spite of them, would stand true and steadfast to their ancient

Republican principles. Time has now subjected to its unerring scrutiny the truth or falsehood of every statement made in that letter. The banner of Mr. Clay under which my two colleagues (Mr. Gentry and Mr. Bell) and their whole party fought the battles of the last Tennessee campaign, was at once the evidence of their change, and the signal of their defeat. If further proof should be required to tear away every shred of doubt, which might yet hang around this question of imputed change, let it be found in the nomination of the Harrisburg convention. No, not in that convention, for Tennessee was not there; her late leaders had not the face to ask her to be there. They knew that, on direct proposal, Tennessee would shrink from the adjustment of rival pretensions between three individuals, every one of whom she had rejected on former occasions. No, not in that convention, but in that confirmation of its proceedings which took place in this city; a confirmation in which both of my honorable colleagues participated, and which has since received the sanction and approval of nearly their whole party in Tennessee.

This Shelbyville letter was the first warning given by General Jackson, that a deep laid scheme had been formed to throw Tennessee out of the Republican ranks, and to place her among the opposition or Federal States of the Union. The improbability of success in so daring an attempt, encouraged the boldest and most unequivocal denials of the charge, denials so bold and so unequivocal that the known sagacity of General Jackson and his deep and holy devotion to the Republican institutions of his country, could scarcely save him from the imputation of having slandered and traduced the alleged authors of the attempt. But time, I repeat, has dissipated every doubt on the subject. Those who were designated in that letter as *newborn* Whigs (to indicate that they were not of that ancient and immortal band who so justly and so proudly bore the name) now no longer attempt to conceal their purposes; but boldly and publicly claim Tennessee to be an opposition State; *trained*, during the last summer, under the banner of Mr. Clay, but to be *enlisted permanently*, in the next, under that of General Harrison. Sir, I thank God that General Jackson lived long enough to see the refluent wave of the popular will in the last elections,

to hear the coming murmurs of an indignant and deceived people; but I sincerely pray that he may live to see (and, living, *he will see*) how proudly that noble and gallant State will resume her position among the Republican States, faithful and devoted as she was at the moment when her most illustrious citizen retired from the toils and labors of public life, to repose beneath the shade of her majestic forests. Sir, I but glance at these things. I refer to and comment on the Gwinn and Shelbyville letters, because they constitute a part of the history of this bill, the original pretext for its introduction. I have no disposition to revive them unnecessarily in the public remembrance, but a reference to them is indispensible, to show that the original pretext was as groundless as the present necessity for it, under this Administration, is notoriously insufficient.

Mr. Speaker, I desire now to reply to some of the complaints made by one of my colleagues (Mr. BELL) against the Democratic party of our State, in his speech on the Cumberland road bill. On that bill, scarcely noticing the merits of the question, its constitutionality or expediency, he took occasion to denounce the past and present administrations "as a standing fraud on the country." A standing fraud in having professed to be opposed to internal improvements; when, in truth and in fact, it only pretended and feigned such an opposition just before an election. By means of this fraud the Democratic party of his own State had been imposed upon and had read him out of the church as a heretic and unbeliever. I might take issue with him on all these points. I might demand the proofs of these bold assertions; but they are stale charges which have been often refuted, and would lead me off from the alleged imposition on the Democracy of Tennessee. Sir, from the day of the veto message of President Jackson on the Maysville road bill, the people of our State have understood that subject well. In her primary assemblies, in her legislature, and in her convention of 1835, Tennessee approved that message. All her public men, with no remembered exception, *then* paid homage to its principles and doctrines. I do not understand my honorable colleague as now questioning its propriety, but as resting his complaints on the ground that he has been excommunicated, not for any vote given, or speech made

here in favor of internal improvements, but because his political associations in this House were with those who were opposed to that message. I fear that the gentleman has in some degree mistaken the grounds of his excommunication. It was because, professing to be opposed to the whole scheme of internal improvements himself, he enlisted under the banner and became the warm and zealous advocate of those who were in favor of them; exerting his great talents and influence to transfer the power of this Government to hands which *he knew* would engage in these wasteful and extravagant expenditures. There, sir, was the true point of his offending. He became the advocate of the father of the whole system, and it will surely lend nothing to his restoration to his old political church, that he is now ranged under the banner of General Garrison, who stands committed, by his votes, his speeches, and his letters, to carry out the same policy. Of what avail was it, then, that the gentleman took his pilgrimage over the Ohio, ranging about in search of some Democrat whose peculiar opinions and position in reference to the Cumberland road, would seem to save him from the imputation of evil associations? In that pilgrimage he happened to come across my excellent friend from Indiana (Mr. HOWARD,) and instantly exclaimed, "Behold what good Democratic society I am in!" Sir, it is not from one or two associations that we judge men; it is from their general intercourse, their common walk and conversation, that we judge them. If the gentleman had never taken up Mr. Clay; if he will now surrender General Garrison; if he will come out from among the ancient and bitter enemies of General Jackson and his doctrines; "if he will come out from among them as not being of them," then he may expect forgiveness and restoration to his ancient church. I repeat, to his *ancient* church. I remember when, twenty years ago, we were both youthful and zealous members of the same church; admiring the same men, and advocating the same doctrines of Democracy. Soon after we commenced our career, the gentleman passed by me, as in merit he should have done, and rose upward and higher in public observance and approbation, until the Democracy of Tennessee claimed him as one of her proudest and noblest sons. She had no treasures which she

did not open to him, and no honors which she did not gladly confer. In this early and high career, the gentleman had no rival in the esteem, and confidence, and admiration of the people of Tennessee—no rival save one. Not that one whose fame and achievements had made him the common property of the nation; (and when I except him, none can be at a loss to know to whom I allude.) I know that the actions and especially the motives of public men are often subjected to unjust misrepresentation and censure. I will not, therefore, even allude to those that have been so often attributed to the gentleman, further than to say, that from the period of his last unsuccessful competition here for the honors which you now enjoy, suspicion followed suspicion like the shadows of the passing cloud, until the Democracy of Tennessee was forced into the reluctant belief that the ardor of the gentleman had greatly abated, if his affections were not totally estranged from her. His separation was the work of time—not accomplished at once by any sudden and *overt act* of defection. But though gradual, it was nevertheless complete, thorough, undeniable, and final. It was, on that very account, the more prejudicial. There never was an hour when the Democracy of our State could not have given up the gentleman and half a score of others like him, and still have moved onward unchecked and unharmed by the loss. But by this slow and gradual process he carried off with him hundreds and thousands of confiding friends, who would have sacrificed any thing sooner than suspect his devotion to the true and genuine principles of Democracy.

Here may be found the true cause of those dreadful disasters and defeats which the gentleman and his friends sustained in the last summer's election. A generous and confiding people had followed the gentleman into the support of Judge White for the Presidency; they had returned members to the General Assembly to help out in the accomplishment of that object; they had sent here almost an entire representation favorable to his wishes. So ingenious and artful was the gentleman's withdrawal from the Republican ranks, that before the people were aware of it they were enlisted in their primary assemblies, in their Legislature, in the halls of Congress, in fact every where,

in accomplishing the political purposes of the gentleman and his friends.

But, sir, all these precautions and preparations would not do. In spite of them, Judge White's pretensions weakened as the election approached. When it was over, the failure was so great, the discomfiture so complete, that the people of Tennessee began seriously to inquire why and how it was they had been so much deceived. They had voted for Judge White, as a Republican or Democrat—as a Jackson man—a better Jackson man than Mr. Van Buren. In giving that vote, she stood undaunted at the polls, ready to deny, in the face of the whole world, that she intended either to desert her principles, or to separate herself from the other Democratic States of the Union. Proud in the consciousness of these truths, when that vote was afterward challenged, she looked to those leaders who had instigated her to the act to stand forth and vindicate her before the world. But, sir, what was her surprise, her deep mortification, when those leaders refused to do so—when those very leaders proclaimed that she *had* changed—that she *had* left Jackson and his doctrines—that she *had* separated herself from the other Democratic States of the Union. When they went even farther than this—when they called on her not to recede; that she had gone too far; that retreat was impossible, and that henceforward she must range herself under the banner, the so often rejected banner, of Henry Clay, of Kentucky! Sir, the annunciation was astounding. What had only been suspected, was now openly avowed! What was at first only hinted at, in obscure and misty prophecy, now stood forth in full and undoubted fulfilment!

[Here Mr. C. H. WILLIAMS rose and denied that Judge White had ever changed his opinions on any important political principles, and called on his colleague to point them out, if he meant to impute them to that distinguished individual, now no more.

Mr. BROWN replied, he was not then discussing the political opinions of Judge White, but endeavoring to explain and adjust certain charges of his other colleague (Mr. BELL,) against the Democracy of Tennessee; his business was, therefore, with the living, and not with the dead. Beside this, Mr. BROWN said he did not mean to allow this debate to take any direction which would enable that gentleman to raise a false issue in the case, and represent him as disturbing the repose and invading the sanctity

of the grave. He hoped he was too well acquainted with his business to be taken in that way.]

From the hour when the gentleman (Mr. BELL,) about five miles south of Nashville, at a dinner occasion, admitted that he was in favor of Mr. Clay, the people of Tennessee began to take the alarm. Many of them, like my honorable colleague from the Bedford district, began to suspect that they had been betrayed; betrayed by men, too, in whose political and personal fidelity they would have intrusted their lives. My colleague (Mr. WATTERSON) first came into public life when he was scarcely eligible to its honors, and when the excitement in our State in favor of Judge White was at its highest pitch. Young, ardent, and confiding, he never permitted himself to distrust the assurances given by the friends of Judge White, that he and Mr. Van Buren were of the *same* political party; and that all that was stable in principle, or honorable and consistent in character, must be lost, before either could join the opposition. Under these assurances he united himself to the White party, and it was not until he saw the flag of Mr. Clay "floating aloft in the breeze," and borne lustily by those very men on whose assurances he had relied, that he abandoned that party, and returned to his position in the Jackson ranks. Under the explanation which he has just given, the rebuke of my colleague (Mr. GENTRY) fell harmless at his feet.

The same explanation belongs to hundreds and thousands of others in Tennessee, who, like him, refused to leave the Jackson party, and to go over to the arms of the opposition; an opposition then headed by John Quincy Adams, Daniel Webster, and Henry Clay; I say *then*, not *now*. These great leaders of the opposition no longer bear about them the insignia of command. They have fallen back as mere subalterns in the ranks of Federalism, giving up the command to what they know to be feebler, but hope may prove more available hands. This, I believe, is conformable to what was at one period the Roman practice; not to select their ablest generals to command their armies, but rather to choose those who had proved themselves most fortunate. But, sir, it is not my purpose to complain of this strange selection of a commander-in-chief for the opposition; but to inform my honorable colleague that it was the

discovery that Tennessee was to be transferred to that opposition, whoever might be its commander-in-chief, that sacrificed so many of his friends in the last election. It was this that made them drop one by one by his side, reducing to a bare majority of one, that proud and faithful band of friends that used to surround him on this floor. The gentleman portrayed these losses in most touching and eloquent lamentation, but seemed wholly at a loss how to account for them.

Mr. Speaker, I have not done with the associations of my colleague yet, nor with his charge against the Democracy of Tennessee, for having excommunicated him on account of these associations. It is the theme of reiterated complaint that, during the last summer, he was denounced throughout the State as a Federalist, and that he was doomed to see his friends falling in all directions around him under the same charge. While I do not become his accuser in this particular, I am sorry to say that I have witnessed nothing in his associations, during the present session, at all calculated to relieve him from such a charge. What were those associations in the election of Speaker? I saw him of Massachusetts (Mr. ADAMS,) I saw another (Mr. SALTONSTALL,) whose connexion with the Hartford convention is now notorious; and yet another (Mr. REED,) an avowed Federalist, I believe, during the war and ever since; all supporting the gentleman for that important office. So also, I believe, did every other Federalist on this floor. They all came flocking to his standard. These were ugly associations for Republican Tennessee to witness. Mark, sir, I do not say that all who voted for him were Federalists; far from it; but I do mean to say that as far as I have learned the politics of gentlemen here, every Federalist on this floor voted for him. There never was such a party in this or perhaps any other country like the Federal party. Though often subdued and conquered, it never disbands. In the darkest hour of its peril, existing in secret and mysterious organization, it will suddenly reappear, and, uniting itself to one of two nearly balanced competitors, decide the victory in his favor, claiming the future control of his actions as the reward of its services. Insatiate in its demands for power, when rendered odious by its usurpations, it often assumes some sacred form or some conse-

crated name, and by the very impudence of the assumption, again recommends itself to public favor. I feel sorry that my colleague should have been ever charged with having united himself with any such party; but I must regard it as ominous that, at the moment of his withdrawal from the Democratic ranks, he should have found so many of that party ready to receive him with open arms, and to help him onward to one of the highest offices of the Republic. I trust that I make this allusion to my colleague's having been run as the Whig candidate for Speaker, and to his having been supported by the Federal portion of that party, without personal indelicacy; I advert to it only as a part of the history of parties in this House. The office of Speaker is worthy the ambition of any man, and I do not call in question his qualifications to discharge its duties. But I will not dwell further on this point; I come to another that has opened a gulf between him and the Democracy of Tennessee, deep and wide as ever separated Dives from Lazarus. I mean the gentleman's course in relation to Abolition petitions. Sir, not only have the people of Tennessee, but of the South generally, looked upon that course with infinite pain and mortification. It was a course new and unexpected to them; a course not sanctioned by any thing in his former conduct, and only to be accounted for by his anxiety to place himself in a proper attitude or condition to support the Harrisburg nomination. I do not make the point *now* that the nominee of that convention is an Abolitionist, but it is notorious and undeniable that his nomination over Mr. Clay was effected by *abolition influence*. The exulting and fanatic shout was instantly raised "that another President shall never come from a slaveholding State." I allude to this nomination in order that I may account for the unexpected position now taken by my honorable colleague in favor of *receiving, referring, and reporting* on these petitions.

[After Mr. Brown had gone into an examination of the former course of Mr. BELL on this subject (not here inserted,) he was called to order by Mr. COOPER and Mr. BANKS. The Speaker decided that Mr. Brown was giving the debate too wide a range to be relevant to the bill under discussion.]

Mr. Brown said he would conform with pleasure to the sug-

gestion of the Speaker, and conclude what he had to say by desiring the House not to give this bill the go-by, but now that it had been fully discussed and examined, to pronounce a solemn and deliberate judgment either for or against it.

The vote was then taken,

“ Shall the bill be rejected?”—Ayes 108, noes 53.

So the bill was rejected, by the following vote:

YEAS—Messrs. Judson Allen, Hugh J. Anderson, Atherton, Banks, Beatty, Beirne, Blackwell, Briggs, Aaron V. Brown, Albert G. Brown, Burke, William O. Butler, John Campbell, Carr, Carroll, Casey, Chapman, Clifford, Coles, Conner, Mark A. Cooper, William R. Cooper, Craig, Cushing, Dana, John Davis, John W. Davis, Doan, Doig, Dromgoole, Duncan, Earl, Eastman, Ely, Fine, Floyd, James Garland, Gerry, Goggin, Hammond, Hand, John Hastings, Hawkins, Hillen, Holleman, Hook, Hopkins, Howard, Thomas B. Jackson, Jameson, Cave Johnson, Nathaniel Jones, Keim, Kemble, Kille, Leadbetter, Leonard, Lewis, Lucas, McClellan, McKay, Mallory, Marchand, Medill, Miller, Montanya, Montgomery, Samuel W. Morris, Newhard, Parrish, Parmenter, Parris, Paynter, Petrikin, Pope, Prentiss, Ramsey, Reynolds, Rives, Robinson, Edward Rogers, Ryall, Samuels, Shaw, Shepard, John Smith, Thomas Smith, Starkweather, Steenrod, Strong, Stuart, Sumter, Swearingen, Taylor, Francis Thomas, Jacob Thompson, Turney, Underwood, Vroom, David D. Wagener, Warren, Watterson, Weller, Wick, Jared W. Williams, Henry Williams, Joseph L. Williams, and Worthington—108.

NAYS—Messrs. Andrews, Barnard, Bell, Bond, Brockway, Anson Brown, Calhoun, William B. Campbell, Chinn, James Cooper, Cranton, Davies, Garret Davis, Deberry, Dellet, Edwards, Evans, Everett, Fillmore, Gentry, Giddings, Patrick G. Goode, Hiland Hall, Hawes, Henry, Hoffman, Hiram P. Hunt, Kempshall, Lincoln, Morgan, Calvary Morris, Osborne, Palen, Randall, Randolph, Rariden, Ridgway, Russell, Saltonstall, Sergeant, Simonton, Slade, Truman Smith, Stanly, Taliaferro, Toland, Triplett, Peter J. Wagner, John White, Thomas W. Williams, Lewis Williams, Christopher H. Williams, and Wise—53.

## S P E E C H ,

*On the bill to charter the "Fiscal Bank of the United States."*  
*Delivered in the House of Representatives, August 4, 1841.*

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Mr. CHAIRMAN: I engage in the discussion of this bill with the most profound and unaffected reluctance; a reluctance greatly increased by that inexorable argument, which no refutation can silence—that discussion is useless; the people having decreed, in the recent election, that a national bank *shall* be established. No man bows with a more cheerful submission than I do to the clear and decided mandates of the popular will on all subjects of constitutional legislation. But, on the present occasion, I must be allowed most respectfully to *question the fact* that the people of this country ever have pronounced such a decree in favor of a bank. When or where was such a decree pronounced? On what record of party proceedings is it to be found? Can you find it in the proceedings of the Harrisburg convention, where, of all other places, it should have been found? No, sir, it is not there. Not one word was said by that assembly, showing that either of its nominees was in favor of a United States Bank. Will you search for it in Virginia, every page of whose history will furnish some illustrious name to chide you for the foul insinuation that she had been faithless to the principles of her Jeffersons, her Taylors, her Roanes, and her Pendletons? No, sir; do not go to Virginia, the land of my birth and the home of my youth, for what the most errant of all her sons (Mr. Rives) has never ventured to assert.

Can you find this decree in favor of a bank in North Carolina, whose vote for the late President was so overwhelming as to astonish even those who gave it? No, sir;

for one of ~~her~~ own citizens, now rewarded for his real or supposed influence in bringing about this result, by a seat in the Cabinet, standing in the presence of hundreds and thousands of the people of that State, pronounced the charge that General Harrison was in favor of a national bank to be false—utterly false. In Georgia, so great was the variety of opinions as to what were the sentiments of General Harrison on the subject, that it would be the very height of disingenuousness to attribute his vote in that State to any known preference in favor of such an institution. In Alabama, the great whig convention of that State, in a very able appeal to their constituents, not only averred the fact, but collated the proofs, to show General Harrison's opposition to a national bank on every ground whatsoever. That the bank question *was* more or less involved in that election everywhere, I do not mean here to deny; but that it was blended with others, of local and exciting influences, is equally manifest. Who in this hall would be bold enough to aver that in the Keystone or the Empire State the election turned exclusively on the question of bank or no bank? It is notorious that the other questions mingled in the canvass, and that anti-masonry and abolition contributed in no small degree in producing the results in those States. So it was in Ohio and Indiana, where the bank question may be regarded as the least distinctive and controlling one in the canvass.

Yet, sir, in the face of these well known facts, we have been silenced by the previous question—restricted to a single hour in debate—all the ancient forms and rules of those who have preceded us have been broken down; and this measure, with others, literally forced upon us, in rapid succession and indecent haste; all under the plea that discussion is useless—that the season for debate and argument has gone by; and all that remains is but to register the solemn decrees of the people in favor of such an institution!

Mr. Chairman, there is one thing which that inexorable majority, by which all these things have been said and done, has never yet pretended to deny. It is well known that the Ameri-

can people are greatly divided in opinion as to the best mode or form of banking in this country—whether by individuals, by joint-stock companies, by banks owned by the General Government, by banks belonging exclusively to the States, or by banks jointly owned and governed by the States and the General Government in partnership. It is known that all these various plans have their advocates, numerous and powerful, in every State of the Union. Now, it is not pretended that these various plans were presented, and their relative merits passed upon by the people, in the recent election. On the contrary, it is known that the canvass was otherwise conducted. No specific plan was presented—no details were gone into. The evils of a depreciated currency, the necessity of having a great regulator to control the local institutions, constituted the theme of every orator, whose *generalities* were intended to embrace every one who might be in favor of any species of banking.

Nay, I will venture to record another fact, which never has been nor can be successfully controverted: that, in a very large majority of cases, the travelling rhetors of the dominant party expressly disclaimed the old United States Bank as the sample or model of the new one. They scarcely ever controverted the objections taken by General Jackson, and which they knew the American people had over and over again sustained. This was emphatically true in the State of Tennessee. There, every public man in our legislative halls, as well as in the convention which revised our constitution, had sustained and approved those objections. Our whole population, whether devoted to General Jackson or to Judge White, had condemned the old, or the Biddle Bank, as it was commonly called, everywhere and on all occasions. Hence it was that no public debator in that State, as far as I have ever known or heard, ever distinctly avowed the old bank to be *his* favorite model of a new one. Nor do I believe that there is now, or ever has been, one-third of that population who would say that it was *their* model of a national bank. They had formed a deep and fixed abhorrence of that institution; and when looking out for relief under the commercial revulsion of 1837, they looked to an institution *owned* by the United States, *governed* by the

United States ; its *profits* going to the *people* of the United States ; with each State having, and, when able, owning a branch and applying its profits to its own State purposes. Sir, this now is, and has been for years, the plan or model of a bank which has made so many bank converts in that State.

I will adduce only one other proof to show that the people in the last election *did not* pronounce any such decree as is now pretended,—that the whole argument is a gross attempt to pervert, and, in fact, to falsify their proceedings. It is the authority of President Tyler himself, a party in that election.

In his message to Congress, now lying before me, he has expressly told us : “ What is now to be regarded as the judgment of the American people on the whole subject, [the banks and the currency,] I have no accurate means of determining, but by appealing to their more immediate representatives. The late contest, which terminated in the election of General Harrison to the presidency, was decided on principles well known and openly declared ; and while the sub-treasury received in the result the most decided condemnation, *yet no other scheme of finance seemed to have been concurred in.*”

Sir, the President was right—the nation knows he was right. The people, if they decided *against* the sub-treasury, did not decide *for* a United States Bank ; and least of all did they decide in favor of such a bank as this, modelled and fashioned as it is, with slavish exactness, after the old United States Bank. Since the election, that institution has expired, amid the groans and sufferings of those who reposed in it a too fatal confidence to the last. Its inherent defects and hideous corruptions are now lying open and bare to public inspection. The committee who reported this bill have profited nothing by its past history, and have taken no warning from its disastrous overthrow. They still hold it up, in the person of this bill, to the admiration of the American people, and challenge for it their approbation for twenty years to come !

Regarding, then, as I do, this whole subject as fairly open for debate, I shall proceed to the discussion of the bill, with that candor and impartiality which its importance deserves.

My first objection to this bank is, that it is *a charter of incorporation*, which I hold this Government to be incapable of

granting. The constitution contains, as is admitted, no express grant of such authority. The records of the convention, now published to the world, clearly show that the power to create corporations generally was proposed, referred, reported on, debated, and the vote taken by yeas and nays, and expressly refused by the convention. Can any thing be more conclusive than this? We are now searching for some congenial spot in this constitution where we can locate this power. We *must* find it, or the passage of this bill will be a rank and perjured usurpation. Well, we search for it—we cannot find it in the constitution. We go back to the journals and records of those who formed it. There we find it was *refused* in every form and in every shape in which it could be proposed. What then? We are told to look for it *by implication*. Implication, sir, against the express and positive record of the convention! Ay, to implication; for we are told that the convention declined putting down this power plainly and distinctly in the constitution, lest the people—particularly those of Pennsylvania, who were very hostile to banks—might see it, and refuse to ratify the constitution.

Sir, this is the argument universally employed to overturn this important, this omnipotent fact. Let me repeat it. If the convention had given this power *plainly*, the people would have seen it, and would have rejected the constitution. It was therefore, designedly left, to be claimed by intendment or implication in aftertimes, when it would be too late for the people either to reject the constitution or to prevent its exercise. Now, sir, what is all this, but the imputation of a design in the framers of the constitution to practice the most reprehensible *fraud* on their constituents—constituents whose noble and gallant deeds in the war of independence, then just terminated, eminently entitled them to precisely such a form of government as they might freely choose, without being duped and deceived in the selection. This imputation against the venerable fathers of the republic is too foul and monstrous, and throws us back on the records of the convention, containing a clear, express, and oft-repeated rejection of the power of establishing a bank or creating a corporation. Mr. Chairman, in the absence of an express grant, there is a potency

in those records second only to the constitution—a potency that outweighs a thousand-fold the opinions of individuals, however eminent—a potency which cannot be destroyed, but by the degradation and infamy of those whom America has most honored and most revered.

The location of the principal bank within the District of Columbia is but a poor evasion of this constitutional objection. A vast and mighty power—not expressly granted to Congress, as the Legislature of the whole Union, and which, when distinctly proposed, was expressly refused—is now claimed to have been conferred by that clause which gives it exclusive legislation over the little District of Columbia. Our legislation may be *exclusive*, as against Maryland and Virginia, by whom the Territory was ceded; and still be *limited* in its objects, and *restricted* by the general prohibitions of that instrument. But, without insisting on this principle, and certainly without abandoning it, I assume another, about which casuistry itself cannot hesitate. If Congress have the power of exclusive legislation over the District of Columbia, it must be *for* as well as *in* the District—local in its objects, and territorial in its action. To seize on a power granted for such limited and special purposes, and expand it over a mighty continent, is a shameless perversion of the constitution—a mean and fraudulent usurpation, far more wicked than the boldest interpolation of that instrument could be. Sir, the little dwarf which you pretend now to be harmlessly planting in this District, will presently lift his giant form high above it; and, “looking abroad over this empire republic, will wave his money sceptre over crouching sovereignties and a prostrate people.” Sir, do not believe that its location here, where there is no commerce, was intended as a concession to constitutional scruples, honestly entertained in any quarter of the Union. No, sir; it was to bring the bank in *sight* of the White House at the other end of the avenue; not for *his* benefit who now inhabits it, but for *his* whose heart pants for its occupancy, and whose ambition even now is moving heaven and earth for its attainment. It is brought here, the vile and corrupting instrument of party, to be ever at hand, ready and willing to perpetuate the ascendancy of those who gave

it existence. Heretofore, the political has been separated from the money power of the nation. Instead of a union, there has been a war between them. But henceforward there is to be peace—alliance—partnership. What before has been fiction, is now to be reality; the sword and the purse are to be joined in united potency, to strengthen the arm of executive domination. If allowed to use an illustration less warlike than the last, I would say,—this fiscal harlot, banished under the preceding administrations, now returns from her exile, leaning on the arm of her deliverer, ready and willing to pay, in adulterous gratitude, the guilty price of her ransom.

My next point of objection is, that this is a charter of incorporation of *individuals*, to whom the effectual control of the institution is conceded. The desire of gain is a principle so deeply engraven on the nature of man, that it cannot be eradicated. This truth is nowhere found in stronger illustration than in the business of banking. The more paper issued, the greater their profits; and from the natural propensity to which I have alluded, they are sure to overleap the feeble barriers of their charter, and to issue paper far beyond their ability of redemption. This desire for *excessive profits*, so subtle and insinuating, never has been, and never will be, successfully resisted. It is the real cause of all our former failures in the business of banking. It is the simple but potent principle that lies at the bottom of all the expansions and contractions of our paper currency, and consequently of the commercial revulsions and pecuniary distresses of the age. This cause must be removed before the evil can be remedied. Withdraw the business of banking from the hands of individuals—take it away from the suggestions of individual avarice—and you at once eradicate the fruitful cause of all our former failures. in this charter, the fact that the nation is to own one-third of the capital can make no possible difference. Just as sure as two-thirds are more than one-third, just so sure will individual avarice govern the institution, and cause it to run the same profligate career with its great prototype, and perish, like it, amid the stench and rottenness of its own corruption.

Mr. Chairman, I must take time here to mention another objection which I have to this bank, as well as to all others

owned by individuals, and conducted by them for their own benefit. I regard banking, or the making of paper-money, as the most enormous speculation of modern times. I allude not simply to the rate of interest, but to all the advantages, direct and collateral, which those enjoy who have ready access to the funds, and who have control over the banks. These enormous profits, accumulating in the coffers of individuals, introduce a proud and bloated aristocracy in our land, and thereby destroy that plain republican equality of rights and of fortune which I have ardently desired might be long preserved in our country. I would join in no crusade against that wealth which may be acquired by honest industry and sagacious enterprise; but I will forever protest against those *special privileges* which give to one favored class exclusive advantages over all others, and which must introduce into our young and rising country all the aristocratic distinctions of the old world. Other objections exist to individual or joint-stock banking, which do not fall within the range of the present debate, and which time will not allow me to enumerate. Repudiating, as I have done, all individual and joint-stock banking as banks of issues, there remain only two other modes of making paper-money in this country. These are, either by the nation in the aggregate, or by the several States of the Union, excluding individuals from all participation whatsoever. Neither of these forms of banking is now before us; and the few precious moments of the brief hour which your rule allows, will not admit of their discussion. I leave them, therefore, with this declaration,—that I reject every plan of banking by the General Government, and infinitely prefer seeing a paper currency emanating, if at all, from the respective States of the Union;—not from corporations of individuals created by them; but from banks, owned exclusively by the States; governed by them; and all the profits made by them received and enjoyed by all the people of the States. As a member of Congress, I have nothing to say or do for or against such a system of banking by the States: the question belongs exclusively to themselves; but, as an American citizen, I am free to declare that, of all the different modes of banking which have been heretofore tried or proposed, I prefer such a

system by the States as I have mentioned. But I return from this digression to further objections to this bill.

The creation of this corporation is the introduction of a new power into our form of government, more potent than any other known to the constitution. The legislative, judicial, and executive departments constitute the three great powers of the government. But here is a power more potent than any—I had almost said than all of them put together. Neither the Executive nor Judiciary can directly reach one in ten thousand of our population. In reference to currency, the Legislature only is authorized to coin and regulate the value of gold and silver, which the industry of individuals has dug out of the earth, or procured in the course of lawful commerce. But here is a power that can *make and circulate* a currency many times greater in amount than all the gold and silver on this continent. By doing so, they are enabled to take the real money of the country out of circulation; lock it up, and substitute their own manufacture for it; and thus bring their powers to bear upon almost every individual of our seventeen millions of population. This *new artificial person*, making and then wielding the capital of a whole continent, regulates and controls the value of all the property, real and personal, and of all the labor, mechanical, agricultural, and commercial, of a mighty people. It is *made* to regulate the currency; that is, to set up and pull down other institutions; to make money plenty or scarce; to make property high or low, according to its own good pleasure. On every discount day, nine men are to assemble in this city, on whose fiat hang the fortunes and destinies of this whole people. They send forth their high commands, east, west, north, and south, to their subordinates in the branches; and in twenty days a whole continent lies prostrate at their bidding. The friends of this bill tell us that these orders may go forth bearing the blessings of prosperity and plenty on their wings. If this be true, is it not necessarily true, also, that they *may be* laden with curses—with blight, and mildew, and death to the hopes and business of the country? A power so mighty, either for evil or for good, is now to be sprung into existence; and no other power is to stay, or check, or control its tremendous action, for twenty years to come.

I pause, to demand if the people of this country would be willing to confer so great a power even on the Executive of their own choice? Would they bestow it on any nine members within these walls? or on any nine men who ever lived in this country, however illustrious their names or eminent their services? If they would not, can they be willing that a number of capitalists,—living at great distances from them, and who never had any sympathy with them in their wants, their sufferings, and their labors,—shall get together and appoint nine agents—for themselves, not for the country—for their own benefit, not that of the people—to regulate the currency, which is to control the price of all the property and all the labor of the country? Sir, it cannot be so. It cannot be that the American people, so jealous of their rights, are prepared to surrender them to a mercenary oligarchy—the more odious, because owing no responsibility to the people whom they plunder and destroy. Sir, if it be the duty of Congress to regulate the currency, (which I deny,) let Congress do so *itself*, by its own officers, appointed by and responsible to them, as they in their turn are responsible to the people: but do not, I pray you, *make an assignment* of your duties to this avaricious, mercenary, soulless corporation, which *will* have its high interest and large dividends, although the people were starving for the bread of life. I pray you perpetrate no such wicked and horrid thing in this land. Make your own bank; found it on your own resources; govern it by officers of your own selection, if you can do so under the constitution. Let all the profits of the operation enure to the benefit of all the people of the United States. Do this, bad as it would be, rather than form a corporation in which you are to be a subordinate partner, impotent for all purposes of control; and in which you will be compelled by your stock-jobbing partners to inflict the most heart-rending exactions and oppressions on the people you represent. Sir, the accumulated aversion of many years to a degraded and degrading partnership like this, induces me to repeat the imploration, that, if it be your duty to regulate the currency, do it *yourself*, without the agency and partnership of this corporation.

What necessity is there, let me ask, for this amazing and

dangerous delegation of power? Is it the too great scarcity of gold and silver to meet the demands of the growing commerce of this country? This bank with its thirty millions will not permanently add one solitary dollar to the specie on this continent—not one solitary dollar. Is it to make *paper*-money more abundant? Why, sir, that is the very disease of which this country has been dying for years. The excessive paper issues of 1834, '35, and '36, are known to have produced the revulsion of 1837. The veriest quacks and impostors now admit this. The process of *diminution* has been going on ever since 1837, with slow and painful but invaluable success. It was the universal prescription for the disease, that we should lessen the amount of paper, and bring it down to a fair and reasonable proportion to the precious metals. We have followed that prescription, until the country is evidently emerging from that state of indebtedness induced by extravagance and speculation, from which at one period we awfully feared it never could be rescued. But, after all, and in spite of all, we have rode out the storm; we have neared the port; we have gained sight of the land. And shall we be again thrown back on the same wide ocean of paper-money, from which we vainly hoped soon to be rescued? Look to the hundreds of millions of paper-money now in circulation; then look to the beggarly amount of specie provided for its redemption; and say if there be not gross quackery, if not something worse, in the present proposition to increase the amount some sixty or seventy millions. Let me employ another illustration of our present condition. We have been for years drunken by extravagance and excess in every thing; and now that the care of sincere and kind friends has nearly restored us from the vile debauch, one of our old *bottle companions* intrudes his prescription upon us, and insists that we shall run the same round of guilty dissipation as before. And, sir, it is astonishing to see with what ready and even eager willingness the infatuated patient, breaking away from the custody of his best friends, will follow the counsels of those who will but delude and destroy him.

But, Mr. Chairman, I turn away from this bank, as the means of relief to the people, and as an institution to regulate the currency and general business of the country. I wish now to

consider it as "the *Fiscal* Bank of the United States,"—a bank, as its name imports, *necessary and proper*, for the Government, in some way or other, in the collection, safekeeping, and disbursements of the public revenue.

The eighth section of the first article of the constitution is an enumeration of the powers of Congress; amongst which, that of collecting taxes, duties, imposts, and excises, is one of them. At the close of the same section, it is declared that "Congress may make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." This is the congenial spot on which the bank has ever delighted to locate itself. The *false pretence* that it is necessary to the Government in the collection of its taxes and duties, is seized upon to give it existence; whilst in truth and in fact it is solely intended for the benefit of the commercial business of the country, and to subserve the interest of stock jobbers, speculators, and all others who live by their wits, instead of the honest labor of their hands. I repeat that it is a *false pretense*, for the experiment has been now repeated—which was first made in the earliest and purest days of the republic—of collecting, keeping, and disbursing the public revenue, without the agency of any bank whatsoever;—an experiment which Washington first adopted; which Jefferson subsequently recommended should be again adopted; which Judge White maintained to be entirely practicable; and which Mr. Bell declared could do no great good or harm to any of the great interests of this country. That experiment has been actually tried, tested, proved, for more than one entire year, with eminent and complete success. The much abused sub-treasury has demonstrated that a bank is *not necessary* to carry on the financial concerns of this nation. Although condemned, as the President says it has been, it retires full of honor, carrying with it a proud justification of its friends, and casting back upon its enemies a triumphant refutation of all their predictions of its entire failure.

But, Mr. Chairman, not even the *pretense* of such a necessity is sustained by the provisions of this bill. The bank is not

to be charged with the duty of *collection* at all. Your collectors of the customs and your receivers at the land offices are still to be continued, and every dollar is to be *collected* by them as heretofore. Nor is it true that the bank is to be charged with the payment or disbursement of the revenue: these, under the warrants of your Treasurer, are to be made by your pay-masters, pursers, and other public officers, as they have been from the foundation of the Government. All that this fiscal concern is to be employed by the Government to do, is to have the simple *custody* of our revenue during the brief period between its collection and disbursement. And is this *all* the necessity—all the propriety for this mighty institution? Certainly it is, all—all. Simply to *keep* your surplus revenue, when all agree that there should be no surplus; and to keep it for a *little while*, until you can find some creditor willing to take it off your hands. What a mighty edifice to be reared on so small a foundation! a mountain resting on a pebble!

Unable, as it is now falsely pretended, to *keep* our own revenue, we are called upon to establish this ponderous agency for that purpose, and for that purpose only. We must advance certainly ten millions—probably sixteen millions—to set this agency in operation. I mistake, sir; we do not *advance* the money; we have it not to *advance*. We must borrow it at home or abroad, and pay an interest of at least half a million of dollars. Ten millions, at five per cent., make that sum; and if we have to take the sixteen millions mentioned in the bill, it will be nearly three-quarters of a million. This amazing sum we must pay annually for the benefits of this wonderful agency. What was the cost of the Independent Treasury, which we are so often told the people have rejected? It did not exceed fifty thousand dollars per annum. Fifty thousand against five hundred thousand! Yes, sir, carry this fact home, faithfully home to the people,—that for this new Fiscal Bank they must pay at least ten times as much as for the Independent Treasury. What a commentary on the economy of this reformed and reforming administration! Where we formerly paid ten dollars for the temporary custody of our revenues, we are to pay now one hundred; and where one hundred, we must now pay one thousand! You point me in vain to the

profits and dividends of this Fiscal Bank, for the reimbursement of all this interest. The fate of the old bank, and of hundreds of others now lying like shattered and broken wrecks over the whole ocean of incorporated insolvency, will furnish ample refutation to the argument. With *all* their profits and nearly all of their original capital wasted and plundered, what hopes can we have of future profits and dividends from this institution, made by party, and whose proceeds will be prostituted and wasted for the vilest purposes of party?

Mr. Chairman, it is on a slender necessity, such as I have described, that the present charter is asked for with convulsive anxiety. It was on such a foundation as this that the constitutionality of the old bank was sustained by the Supreme Court of the United States; not that the judges thought such an institution to be necessary and proper, for *that* they have never decided; but that if *Congress* thought it so, it was not for them to decide to the contrary;—that it was the exclusive province of Congress to decide on that question, and, having done so by passing the charter, it was not their province to set aside that decision. The celebrated opinion of Chief Justice Marshall, in the case of the Bank of Maryland, “has this extent—no more.”

And yet the gentleman from Pennsylvania, in this debate, has pressed the argument on the House that this was the decision of the tribunal of the last resort, and that all the other departments of the Government must yield and conform to its adjudication. Sir, it is in exact accordance with its decisions that this House is now considering this very question of constitutionality. They have declared that it is our business to decide that question, and not theirs. If more than this is claimed to have been decided by that court, I deny its authority to have gone further. We are co-ordinate and co-equal with the judiciary. It is our business to prescribe the law; it is theirs to administer it and enforce it between individuals. But the constitution is above both. Each, in its own department, must construe for itself, and neither can control or lord it over the other. That solemn oath which you administered to every member on this floor, embraced nothing but the constitution, and had nothing to do with those commentaries which the judi-

ciary may have made upon it. The oath was personal; the infraction of the constitution would be personal, and the high penal sanctions of that oath would be personal, both in time and eternity.

But the gentleman from Virginia (Mr. Borr) claims more than a Popish infallibility for this tribunal. Their decisions are to be above and to supersede the constitution. Instead of that sacred instrument being laid on our table, in order to be before us for perpetual reference, it is to be laid upon the shelf, or hid in some obscure recess of this vast Capitol, and the decisions of the Supreme Court substituted in its stead. This, sir, is what the gentleman's argument would do for the constitution. What does it do with the President? The gentleman declares that, in the face of the decisions of that court, the President has no right *to think* about the high injunctions of the constitution; that the court has thought for him—has expounded for him; and it is his bounden duty to conform, with implicit obedience, to its commands. The same argument leads to the stultification of this House and of the Senate of the United States. But, sir, I am not surprised at it. Throughout this session we have been told that we had no right to *debate*; now we are informed (what it was easy to anticipate) that we are not to *think* adversely to the Supreme Court.

Yes, Mr. Chairman, the freedom of debate has been cloven down; the liberty of thought has been denied to this House and to the President; and these two great departments of our Government are proclaimed to be the mere agents to register the edicts of the judiciary.

Sir, I am admonished that I have but three minutes more to protest against the passage of this bill,—three minutes more to protest against the monstrous doctrines by which it is sustained. Sir, I have no use for them, but to give them back to that inexorable majority by whom they were granted.

## NOTES.

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Mr. B. does not wish to be understood as saying that the *journals* of the convention show that the proposition to authorize Congress to charter a bank was, *so nomine*, submitted to the convention and rejected. That there was such a proposition, however, is satisfactorily established by other testimony. He submits the following from Mr. Jefferson's Memoirs : "March the 11th, 1798. When the bank bill was under discussion in the House of Representatives, Judge Wilson came in, and was standing by Baldwin. Baldwin reminded him of the following fact which passed in *the grand convention*. Among the enumerated powers given to Congress, was one to erect corporations. It was on debate struck out. Several particular powers were then proposed. Among others, Robert Morris proposed to give to Congress a power to establish a national bank. Gouverneur Morris opposed it; observing that it was extremely doubtful whether the Constitution they were framing could ever be passed at all by the American people; that to give it its best chance, however, they should make it as palatable as possible, and put nothing into it not very essential, which might raise up enemies. That his colleague (Robert Morris) well knew that a bank had been the great bone of contention between the two parties of the State, from the establishment of their constitution; having been erected, put down, erected again, as either party preponderated; that, therefore, to insert this power would instantly enlist against the whole instrument, the whole of the anti-bank party of Pennsylvania: whereupon it was rejected, as was every other special power, except that of giving copy-rights to authors, and patents to inventors. The general power of incorporating being whittled down to this shred. Wilson agreed to the fact."

The argument here submitted, as to the rejection of this power, is fully sustained, however, by the following extract from the journal of the convention. (1st vol. Elliott's Debates, page 278.)

" Saturday, August 18, 1787.—The following additional powers proposed to be vested in the legislature of the United States, having been submitted to the consideration of the convention, &c., were referred, &c. The fifth proposition of the series was as follows :

" To grant charters of incorporation in cases where the public good may require them, and the authority of a single State may be incompetent.

" The 12th of the same series was in the following words :

" To grant charters of incorporation."

These two propositions being in the same series, offered by the same individual at the same time, cannot be considered as tautological, but as really intended for different objects. The first should be regarded, most probably, as intended for corporations for cutting canals or other improvements, where several States were interested, and other similar purposes. The second, as intended expressly for conferring banking powers ; *that* being the almost universal mode of creating banks in those days as well as now. If the second proposition did not look exclusively to banks, it certainly *included* them, as did also the first proposition.

On Wednesday, September 12th, the Committee of Revision report a revised draught of the Constitution, from the various, irregular, and detached decisions which had been made, in which they *do not propose* to confer on Congress the right of creating corporations *in either* of the ways proposed in the above series.

On the 13th (the next day after the report) it was moved and seconded "That the House proceed to the comparing of the report from the Committee of Revision, with the articles which had been *agreed to* by the House, and to them referred for *arrangement* ;" and the same was read by paragraphs, compared, and in some places, corrected and amended. This was to be carefully done, in order to see if they had *arranged* it correctly, according to the decisions of the House. The report does not embrace corporations, in either of the forms mentioned ; hence, it is fair to conclude they had been *rejected* by the House, and therefore rejected by the committee in their compilation. On the 14th of September, whilst this process was going on, they reached the eighth section of the first article. No one complained that anything had been omitted by the Committee of Revision ; that they had left out improperly "the right to create corporations," in either of the forms above mentioned. But a *new* proposition, to grant *letters* of incorporation for canals, &c., was presented, and voted down by the convention : Yeas, Pennsylvania, Virginia, and Georgia—3; Nays, the other eight States. This was either a new proposition to procure the power, or it is a summary mode of identifying the old ones which were rejected by the above vote.

Mr. B., in his comparison of the relative expensiveness of the Independent Treasury and the Fiscal Bank, has placed the annual expenses of the former entirely too high. One-half of the amount stated would have been much nearer the mark.

## S P E E C H ,

*On Remitting the fine on General Jackson—Delivered in the House of Representatives, in Committee of the Whole, January 8, 1844.*

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Mr. PRATT, of New York, introduced the following Resolution :

Whereas the Legislatures of eighteen States of this Union, containing, at the last census, about fifteen millions out of the seventeen millions of the inhabitants of the United States, have instructed their Senators and requested their Representatives to refund the fine imposed on General Andrew Jackson by Judge Hall: And whereas strong expressions of public opinion have been made in favor of the same measure, in the remaining States of the Union: Therefore,

*Resolved*, That at four o'clock, this day, all debate in Committee of the Whole House on the state of the Union, on House bill No. 1, to refund the fine imposed on General Jackson shall cease, and the committee shall proceed to vote upon such amendments as may be pending, or as may be offered to said bill, and then report the same to the House, with such amendments as have been agreed to by the Committee.

Which said resolution was adopted; and thereupon the House resolved itself into a Committee of the Whole House on the state of the Union, and proceeded with the consideration of said bill.

Mr. AARON V. BROWN obtaining the floor, said: That it had not been his intention to say one word in favor of the passage of this bill. So far as he was concerned, he had intended to let its fate depend on the known wishes of the American People, and the express instructions of seventeen or eighteen of the sovereign States of this Union; but chiefly on the resolutions of the Legislature of Louisiana, declaring, that if this fine was not refunded by Congress at the present session, the Legislature of that State would feel bound to refund it themselves—a noble resolution, reflecting everlasting

honor on those who adopted it. But this bill had been opposed by arguments so extraordinary, that he now felt it to be his duty, as one of the Representatives of Tennessee, to make reply to them.

The gentleman from Kentucky [Mr. GRIDER] had asserted, that if this bill were passed, General Jackson would never touch a dollar of the money. Is the gentleman sure of that? Why not, then, vote for this bill, and let it stand out as a bright and shining example of a nation's gratitude and justice? It would be *cheap* enough, I am sure, said Mr. B. to meet that gentleman's views of national economy. In one point of view, that gentleman was right. General Jackson would never receive this money as a mendicant at your door. He will never touch it if he must come here, according to the allusion once made on this floor by the gentleman from Massachusetts, [Mr. ADAMS] like the old Roman General, begging from door to door, holding out his wooden trencher, and crying "*Date obolum Belisario.*" No, no. It is the amendment offered by his enemies that would bring the greatest General of our age; as Belisarius was of his, to this degrading attitude. This bill but returns to General Jackson *his own money*, extorted from him by a cruel and unjust Judge, for a noble and praiseworthy action. In this light General Jackson *will* receive it. He will receive it with pride and gratification. He will look upon it as the last act of his countrymen, paying homage to justice, and bearing testimony, for posterity, to the purity and patriotism of his motives.

The same gentleman [Mr. GRIDER] contended that the glory of New Orleans would be tarnished by the passage of this bill; that it was a common glory, in which he and his constituents participated, and therefore he was opposed to passing the bill. Surely that gentleman, nor his constituents, would wish to take the glory, and keep the money too! Ought he not rather to have concluded, that if the infamy of fining General Jackson one thousand dollars for achieving so much glory, should be considered by posterity as a common infamy, he and his constituents, if they refuse to refund, might be considered as participating in it? He was pleased further to remind us that we had assembled here for the purpose of general legislation, such

as our constituents and the country now stood in need of. Why, said he, should we bring up this antiquated and almost forgotten subject—the fine of General Jackson, imposed almost thirty years ago? Surely the gentleman and his party do not mean to plead the statute of limitation? To plead it in the face of fourteen millions of the people of this country, who have commanded this thing to be done? to plead it, too, against a great act of national justice and honor like this? Never, never, if you are really in earnest in claiming any share in the glory of that great man's achievements.

Mr. Chairman, (said Mr. B.,) I now wish to advert to some of the extraordinary arguments of one of my colleagues, [Mr. Peyton,] the honored Representative of the illustrious patriot who is the subject of this debate. What, sir, did he tell us? Why, that he should *vote* for this bill, but that it was the greatest humbug of the age. And will the gentleman really vote for a humbug? First put down the solemn declaration on the permanent records of the nation, to go down the stream of time to all future generations, that it is all a humbug, and yet that he is willing to vote for it! But how did he make it out a mere humbug? He said many fanciful things about the ivy twining around some sturdy pillar for support; and the mistletoe drawing its nutriment from some majestic hickory; and, finally, more than insinuated, that the whole purpose of this bill was to advance the political fortunes of Martin Van Buren. How, then, can he vote for it? How can he vote for any bill brought forward for the purpose of advancing the fortunes “of a mere parasite,” whom he despises and abhors? No, my colleague does injustice to the friends of this bill, and to the people of this country. Their purposes are open, direct, and avowed, to do justice to the man who exposed his life and his all in defence of his country, and was then fined one thousand dollars for it. They ask for the passage of this bill the unanimous vote of Congress—of all men, and of all parties; and it never would have been, never *could* have been a party measure, but for one of the parties of this country having met it with such fixed and never-dying opposition. That has made it, and may continue to make it, a party measure; but let not that be charged to the friends of this bill. He com-

plained that the fame of General Jackson was not likely to be best preserved by those who had taken it in keeping. Would he have us to put it in the keeping of the enemies of this bill? Of the gentleman from Georgia, who had proposed to amend it by eulogizing Judge Hall? Of the gentleman from New York, or of Massachusetts, or even my colleague himself, after the speech he has made? God forbid that the good name and fame of General Jackson should be entrusted to such guardians as these. But my colleague says, that as those who set themselves up to be the especial friends of General Jackson on this occasion desire it, he will vote for it, although, in his opinion, it will strike down the noblest monument of his fame. Can it be possible that the gentleman would really do that? Would he remove even the smallest pebble that lies at the base of that noble monument? Let him but convince the gentleman from New York [Mr. BARNARD] and the gentleman from Massachusetts [Mr. ADAMS] that such will be the effect of passing this bill, and they will instantly turn to its support, and become co-workers with my colleague in striking down that monument which, until now, I had fondly hoped was dear and sacred to every American bosom.

Mr. Chairman, there is something strange and contradictory in the position of both my colleagues, [Messrs. PEYTON and DICKINSON,] in reference to this bill. They have both made speeches against, and yet declare that they mean finally to vote for it. Their speeches are one way, their votes are to be another. How is this anomaly to be accounted for? Sir, in making their speeches they have consulted their heads, but in casting their votes they have consulted their hearts—all the pulsations of which tell them to give back this ill-gotten money. I think, too, it may be accounted for on another principle. In the State of Tennessee, whatever divisions of opinion may exist on the great political questions of the day, there is everywhere and amongst all classes, but one fixed, steady and immovable sentiment of gratitude and devotion to the man "who has filled the measure of his country's honor." These gentlemen cannot, will not, I had almost said dare not, however insensible to fear, do violence to this universal sentiment.

Mr. Chairman, I desire now to reply to the extraordinary

speech of the gentleman from New York, [Mr. BARNARD.] Extraordinary for its general bad temper. Why so hot and fiery on this occasion, and yet so cold, and even stoical, on all others? I fear the gentleman has grown jealous of the venerable gentleman who sits near him, [Mr. ADAMS,] and is determined hereafter to outrival even him in turbulence and violence. Why, too, was the gentleman so nearly presumptuous, if not arrogant, in the language which he was pleased to employ on this occasion? Addressing himself to the known majority on this floor, some of them of his own party, he proclaimed we should not pass this bill ignorantly, or in our ignorance, or some such courteous language as that. Sir, have seventeen or eighteen States of this Union instructed this bill to be passed *in ignorance?* Are the people of this country, nine-tenths of whom are in favor of it, are they too, *in ignorance?* Is that overwhelming majority of this House, which the gentleman himself said he knew could and would pass the bill, were they about to do it *in ignorance?* I submit it to him whether there is not danger that those who do not know him personally—his great modesty—may be ungenerous enough to consider such language as presumptuous and even arrogant.

But whilst adverting to the gentleman's manner and language, let me give you another specimen of that high courtesy in debate, which distinguishes an American statesman. Addressing himself again to the known majority here, some of them his own party friends, he was pleased to say, "You cannot *kick* this bill into any shape that will make it acceptable to the other branch of Congress." How chaste and elegant, and even classical, is such language! "You cannot *kick* this bill into any shape!" But I pass from all this, to the matter and substance of that gentleman's speech.

With great earnestness, he demanded to know why this fine was not remitted during the administration of General Jackson or of Mr. Van Buren. Let me answer him by putting to him another question: Would he and his party have voted for it at any time? Would the old Federal party have ever voted for it? Would those who refused to cross a State line, to meet and give battle to the enemy; would those who, at midnight on the high cliffs of the ocean, hung out blue lights to guide the

enemy into our harbors, that they might burn our ships and murder our people ; would those who had been in secret conference with John Henry, the British spy, would they have voted for this bill at any time, or under any circumstances? No, sir, never. The glorious victory of New Orleans not only drove the British army from our coast, but, it drove a British spy from the bosom of our country. It not only suppressed the spirit of mutiny and revolt in a small portion of the people of Louisiana, but it routed and dispersed the more guilty traitors at Hartford. All these would have opposed the remission of this fine at any and all times. They will oppose it now. They will resort to every device to defeat it. We cannot mould it, or, in the more elegant language of the gentleman from New York, we cannot *lick it* into any form which will induce them to do justice to the greatest captain and noblest patriot of the age.

Well, Mr. Chairman, after all, what is the great constitutional argument of the gentleman against the passage of this bill? It is, that General Jackson had no right, under the Constitution, to declare martial law; that, consequently, he had no right to arrest Louallier ; and, having no right to arrest him, he was bound to obey the writ of *habeas corpus*, commanding him to bring the said Louallier before the court ; and for not so obeying, he was guilty of a contempt of court.

Now, all this I deny, and maintain that, to the extent General Jackson did declare and enforce martial law, he had a right to do it, under, or consistently with, the Constitution. Not that the Constitution *commands* martial law to be declared in any case, but that it *permits*, or allows it to be done, in precisely such cases as occurred at New Orleans. That city and its environs were within the military encampment of General Jackson. His outposts and sentinels were planted around it. Within the bounds of every encampment, military, and not civil, law must prevail. In time of repose and safety, military law in its mildest, and lowest grade, but in time of war and invasion of the place so occupied, military law in its most rigorous form ;—high and rigorous in exact proportion as the peril was great and the danger imminent. This is the principle ; let me give you an illustration : A nation is

abut to be invaded; you post your army at some mountain defile where you can more successfully repel his advances. Within its lines are a few shepherds' huts. Can these go in and out as they please? Can they pass the sentinels of your army without permission, and so carry, if they please, secret intelligence to the enemy? Cannot the Commanding General guard against such danger, by suspending, for the time being, their constitutional right of locomotion? I do not say that he can by the *command* of the Constitution, but I maintain that he may by its *permission*. So if his encampment include a village, or town, or great city, as was New Orleans. Let me now submit another case to illustrate my opinions: Suppose, during the siege, the owners of all the cotton bales, anticipating from his orders that he contemplated their use in the formation of breastworks, had applied to Judge Hall, or some State Judge, for an injunction to prevent their removal from the ware-houses, alleging that they were private property of such great value that the Commanding General's private fortune would be totally inadequate to the payment of their probable damage or destruction; suppose General Jackson to have refused obedience, as he assuredly would, and an attachment for contempt had been issued, returnable on the memorable 23d of December, the time of the first battle. On that day and within that encampment what law was to govern? The civil law which commanded him to be present in court, or the military law, which commanded him to be present on the lines, cheering and directing his army to triumph and to victory? Sir, in that case, or in any similar one, if the civil law was to govern, your Commanding General might have been pining in a dungeon for a contempt of court, whilst the enemy was thundering with its artillery against the city.

But, sir, it matters not to pursue this question of *constitutional* right any further; for the gentleman expressly admitted that the right to declare martial law might be sustained in some cases under the great law of *necessity*. But I contend that in no case does the law of necessity abrogate the Constitution. It only rises above it, but yet stands consistent with it. However this may be, still the admission of the gentleman goes the whole length of the vindication of General Jackson. It is under

this law of necessity we may do many things not affirmatively warranted by the Constitution, but yet entirely consistent with it. What right have I, affirmatively, under the Constitution, rudely to seize the gentleman from Ohio, (who has just closed his speech against this bill,) and rescue him by the hair of his head from a watery grave? What right have I, affirmatively, under the Constitution, to blow up my neighbor's dwelling with a train of gunpowder? Yet, if I do so, to arrest the progress of devouring flames, the law of necessity rises higher than the Constitution, but still consistently with it, and justifies the act. So to save a city from capture, or a nation from subjugation, we may go far beyond the express letter of the Constitution, and suspend many of the personal rights secured to individuals. No one has ever sustained this doctrine more ably than Mr. Jefferson. He says in one of his letters, vol. 4, p. 150, of his works, as follows:

"The question you propose, whether circumstances do not sometimes occur which make it a duty in officers of high trust to assume authorities beyond the law, is easy of solution on principle, but sometimes embarrassing in practice. A strict observance of the written law is doubtless *one* of the high duties of a good citizen; but it is not *the highest*. The laws of necessity, of self-preservation, of saving our country when in danger, are of higher obligation. To lose our country by a scrupulous adherence to the written law itself, with life, liberty, property, and all those who are enjoying them with us: thus absurdly sacrificing the end to the means. When, in the battle of Germantown, General Washington's army was annoyed from Chew's house, he did not hesitate to plant his cannon against it, although the property of a citizen. When he besieged Yorktown, he levelled the suburbs, feeling that the *laws* of property must be *postponed* to the safety of the nation. While the army was before York, the Governor of Virginia took horses, carriages, provisions, and even men, by force, to enable that army to stay together till it could master the public enemy; and he was justified. \* \* \* \* All these constituted a law of necessity and self-preservation, and rendered the *salus populi* supreme over the written law. The officer who is called to act on this superior ground does, indeed, risk himself on the justice of the controlling powers of the Constitution, and his station makes it his *duty* to incur that risk. \* \* \* \* It is incumbent, however, only on those who accept great charges, to risk themselves on great occasions, when the safety of the nation, or some of its very highest interests, are at stake. An officer is bound to obey orders; yet he would be a bad one who should do it in cases for which they were not intended, and which involved the most important consequences. The line of

discrimination between cases may be difficult; but the good officer is bound to draw it at his own peril, and to throw himself on the justice of his country and the rectitude of his motives."

These, sir, are the opinions of Mr. Jefferson, expressed in 1810, and they go the whole extent of the principles on which we vindicate the conduct of General Jackson in declaring martial law. How does the gentleman from New York escape from the force and power of such authority? Simply by saying, that although the great law of necessity may, in some cases, authorize the exercise of such authority, yet in this case there was no sufficient or adequate necessity. No adequate necessity, sir? When did General Jackson overrate any danger impending over him, or the brave army he commanded? What could have induced him to overestimate the dangers at New Orleans? Was he not on the ground? Could he not hear every discharge of the enemy's artillery? Could he not see every signal of his rockets, and every advance of his columns? What, then, could have led him to an exaggerated estimate of the danger? Not the *fears* of General Jackson, I am sure; for he had been born and had lived insensible to fear. There had never been a day nor an hour in his life when he might not have exclaimed, but for its excessive egotism—

"———Danger knows full well,  
That Cæsar is more dangerous than he.  
We were two lions littered in one day,  
And I the elder and more terrible."

The gentleman knows but little of the personal or military history of that great man if he supposes him capable of having been influenced by so ignoble a passion.

This extraordinary position is attempted to be sustained, however, on another ground: that New Orleans and its environs never were *actually* invaded—that the enemy, in other words, never did enter within its chartered boundaries. And why did he not? It was because General Jackson and his brave comrades met him on the lines, drove back his legions, routed and dispersed them, with a courage and a triumph that filled America with joy, and the world with admiration! New Orleans and its environs were never actually invaded! Well,

let the gentleman have it so. Let him have it that the enemy was *at* the lines, but not *within* the lines of the city. Does he not know that if the enemy had once entered *within* the city, all would have been lost? His fires would have been seen blazing from every steeple, and his artillery would have battered down every public and private building. Then might you have realized the full import of their watchword, in the screams of American wives and daughters, under the rude grasp of a licentious British soldiery. Sir, I repeat it: if ever the enemy had once entered within the city, all would have been lost. Your heroic General and his brave officers would have been slain; your noble army would have been captured or dispersed; your city would have been sacked and burnt, and the then young, but rising, and now mighty West, would have been ruined. Sir, I love the West. It is the land of my youth, and the home of my manhood. I love her lofty mountains, her wide luxuriant valleys, her deep majestic rivers. Need I say that I love, and honor, and cherish in my heart of hearts, that immortal man who saved and preserved them all! To guard against a great and mighty calamity like this, he proclaimed martial law. Let me read to you his own eloquent exposition of the motives which impelled him to the act. It is to be found in his defence before an inexorable Judge, sitting in the very city he had just saved, and before he had left the scene of his triumph and glory:

"In this crisis, and under a firm persuasion that none of these objects could be effected by the exercise of the ordinary powers confided to him; under a solemn conviction that the country committed to his care could be saved by that measure only from utter ruin; under a religious belief that he was performing the most important and sacred *duty*,—*respondent proclaimed martial law*. He intended, by that measure, to supersede such civil powers as in their operation interfered with those he was obliged to exercise. He thought that, in such a moment, constitutional forms must be suspended for the permanent preservation of constitutional rights, and that there could be no question whether it were best to depart for a moment from the exercise of our dearest privileges, or have them *wrested* from us forever. He knew that, if the civil magistrate were permitted to exercise his usual functions, none of the measures necessary to avert the awful fate that threatened us, could be expected. Personal liberty cannot exist at a time when every man is required to become a soldier. Private property cannot be secured, when its use is indispensable for the public safety. Unlimited

liberty of speech is incompatible with the discipline of a camp ; and that of the press is the more dangerous, when it is made the vehicle of conveying intelligence to the enemy, or exciting mutiny among the soldiery. To have suffered the uncontrolled enjoyment of any one of those rights during the time of the late invasion, would have been to abandon the defence of the country. The civil magistrate is the guardian of those rights ; and the proclamation of martial law was therefore intended to supersede the exercise of his authority, so far as it interfered with the necessary restriction of those rights, *but no farther.*"

Here, sir, is his own exposition of the pure and patriotic motives—an exposition that ought to have softened down the heart of that "British inebriate," though that heart had been made of stone. Nothing, however, could move the inexorable Judge : he spurned the defence from the record, and the enormous fine of one thousand dollars was imposed on the savior of the city. It was excessive—it was enormous ; *so excessive, so enormous, that it ought to be remitted.* Here is common ground where all can stand. Here the gentleman from New York, from Massachusetts, from Kentucky, might stand ; common ground, where both my colleagues (Messrs. PEYTON and DICKINSON) might have stood, both in their speeches and their votes—the enormity of this fine. It equalled the net income of one whole year of General Jackson's resources. Whatever any man may think of his power to declare martial law, no man *can* doubt the purity of his motives. That purity should have disarmed the law of its vengeance, and wrapped its victim in the mantle of mercy, gratitude and honor.

Mr. Chairman : I fear that much of the reluctance of gentlemen to the passage of this bill is to be found in the fact that this was a pecuniary punishment. Suppose, instead of a fine your Commanding General had been cast into the prisons of Louisiana. Suppose the same mail that brought you the news of that unparalleled victory had brought the news that your General was in a dungeon ; that whilst the brave army which he had commanded had returned home in safety and honor, its heroic commander was pining in prison for the very act which had closed the second war of Independence in a blaze of glory ! How long, think you, would Mr. Madison, then President of the United States, have permitted him to remain unpardoned and unliberated from that loathsome condition. How

long would it have been, before the Congress of the United States, then in session, would have interceded, if necessary, in his behalf? Sir, that whole Congress would have rushed from both ends of the Capitol; and gone in solemn procession to implore his instant liberation. Would the gentleman from New York [Mr. BARNARD] have deserted from the lines of that procession, and exclaimed, as he has now done, "We have a Constitution to preserve," and therefore let him rot in jail? Would the gentleman from Kentucky, [Mr. GRIDER,] then have said, let him pine in his dungeon, because he and his constituents were entitled to their share of the glory of his achievements? Would my colleague, [Mr. PEYRON] have travelled onward in a procession whose object, if obtained, would strike down the noblest monument of his glory, pluck the proudest feather from his war-plume, and dim the lustre of the brightest jewel that glitters in the coronet of his fame? Would the venerable gentleman from Massachusetts [Mr. ADAMS] have been seen then lingering far behind in that procession, and refusing to ask for the liberation of the man by whose defence on a previous occasion he had secured his warmest lodgement in the hearts of his countrymen? No, sir; there would have been no halting and hesitating in such a case in the Congress of 1815. All men of all parties—save only those who loved England, whose proud myrmidons he had conquered, more than they loved their own country—would have rushed to the Executive mansion, and implored the liberation of General Jackson. His punishment by fine stands on the same principle as his punishment by imprisonment. With the same patriotic ardor that the Congress of 1815 would have implored the remission of the one, the Congress of 1844 ought to remit the other.

But the gentleman from Ohio [Mr. SCHENCK] has just told us that this was not the right time; that, if done at all, it should have been done on the day when the fine was imposed. I fear, sir, the right time will never come with him and his party friends, who evince such a never-dying opposition to this bill. Thirty years have now rolled over the memorable scenes of New Orleans; but they have neither dimmed the gratitude of his country, nor softened down the malevolence of his enemies. This is the 8th of January, the day which he has rendered ever mem-

orable in the annals of his country; it is the very day on which this cruel and unjust judgment should be reversed—when this excessive and enormous fine should be remitted. He has rendered it illustrious by the noblest victory on record; let us render it, if possible, still more illustrious, by a great act of national justice and honor.

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## S P E E C H ,

*On the Correspondence of Mr. Webster with the British Minister, in relation to the surrender of Alexander McLeod. Delivered in the House of Representatives, July 9th and 10th, 1841.*

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The following resolution being under consideration in the Committee of the Whole on the state of the Union :

*Resolved*, That the President of the United States be requested to inform this House, if not incompatible with the public service, whether any officer of the army, or the Attorney General of the United States, has, since the 4th of March last, been directed to visit the State of New York for any purpose connected with the imprisonment or trial of Alexander McLeod; and whether, by any Executive measures or correspondence, the British Government has been given to understand that Mr. McLeod will be released or surrendered; and, if so, to communicate to this House copies of the instructions to, and report of, such officer.

Mr. A. V. Brown, of Tennessee, addressed the House as follows :

Mr. SPEAKER: I offer no apology for further discussion of this subject. It has not been discussed enough yet. It was not discussed enough last winter, when the British Government *half* confessed that she had invaded our soil, burnt our property, and murdered our people. She *so nearly* confessed it, that when her minister's letter was received, containing the impudent avowal "that the destruction of the Caroline was the public act of persons in her Majesty's service, obeying the orders of their superior authorities," this hall rung with indignation from one side of it to the other.

The *now* chairman of the Ways and Means, and the present Postmaster General, both coming from the region of country where this outrage was perpetrated, made the most animated appeals to our sympathies and patriotism.

But the cold suggestion was made then, as now, that the

negotiation was yet pending, and we must beware how we aroused the sleeping lion of English power. Soon afterward, the Committee on Foreign Relations submitted a report, rather spirited in its tone, commenting with some slight severity on British aggression and ambition; when we were again admonished of her fleets and armies, and the ease with which she could reduce our towns and cities to ashes.

These admonitions were effectual. Debate subsided; the first flashes of our indignation died away; and we adjourned, half regretting that we had *dared* to debate the subject at all.

Sir, Lord Palmerston observed all and read all that was uttered in this hall; and concluding, from the too cautious temper of that debate, that Mr. Forsyth would not be sustained in the lofty stand he had taken, determined at once to make a *peremptory* demand upon us—to appeal to our fears “of the serious consequences of a refusal.” I hope in God that no action of this House, on this resolution, will ever confirm his degrading estimate of its disposition and determination to resist all foreign aggression at every hazard.

It is time, high time, for us to speak out boldly, and without reserve. England’s ministry have spoken the words of burning shame to the insulted honor of this country. One of her members of Parliament has even threatened to arm our slaves, and to excite all the Indian tribes against us. And shall an American Congress be *afraid* to speak—afraid to call even for necessary information—lest, peradventure, it should embarrass our future negotiations? Sir, I am free to declare that I desire to embarrass all such negotiations as have been lately going on. Were I the American Executive, my Secretary of State should never write another line in the way of negotiation, until England withdrew that degrading threat, which is yet hanging over my country, and which Mr. Webster has never had the heart to repel—all American as that heart is, according to the gentleman from Virginia, [Mr. WISE.]

But, sir, can this call, by any possibility, embarrass future negotiation? It cannot, for the resolution on its face confers on the President a boundless discretion in giving or withholding the information. Besides, a large portion of the call relates

only to the mission of two of our own public officers to the State of New York, with whose instructions England should never have been made acquainted. But, instead of this, it is highly probable that the British Government knows all about them, whilst our own countrymen are profoundly ignorant on the subject.

This mission was so extraordinary—so unlike any thing that had ever occurred under any former Administration, that curiosity alone might prompt us to inquire why a brave and gallant general of our armies had been sent off four or five hundred miles—not to meet and battle (as he had often and gloriously done) the enemies of his country, but, strange to tell, to attend to a law-suit in court. Only think of it, sir; an old soldier, covered with his scars and his honors, sent out to assist the law officer of the Government to argue a demurrer to an indictment, or to file a plea to the jurisdiction of a county court. Heavens! as the eloquent gentleman from Kentucky, [Mr. MARSHALL,] would say, “what an immortal petrefaction” of human folly!

But, sir, to be serious. Was General Scott despatched to New York for any purpose connected with the trial of McLeod? And, if so, what could have been that purpose? Was it to effect a release by the *sword*, if the Attorney General should fail to procure it by the *purse*? Such a purpose is incredible. What then? Why, the most probable conjecture is, that Mr. Webster had learned, from some source or other, that McLeod was to be liberated at all events; and at every hazard, by the British authorities in Canada; that, in the event of a conviction, our soil was to be *again* invaded, our jail at Lockport to be pulled down or burnt like the Caroline; and, if necessary, to shoot and sabre and murder our people, as they had done before!

Sir, I want to know all about this military expedition; and, if my conjecture should prove correct, then I want to know why Mr. Webster should feel so much sympathy for this English subject, who inhumanly boasted that his sword was yet red with the blood of an American citizen,—why he should send him testimony and counsel, and render him every assistance in his power to escape justice and to elude the law.

Surely Mr. Webster was under no obligation to the British nation so to volunteer his services in behalf of one of her subjects. That would make him more like a British consul than an American Secretary of State. From that hour (if not before) when Mr. Fox declared the *approval* of the burning of the Caroline, and the murder of her crew, by his Government, Mr. Webster should have said: "Then go and defend McLeod yourself; employ his counsel with your own or your nation's money; collect his testimony for him yourself; henceforth and forever I leave him to his fate, to answer to the insulted and violated laws of New York in the best manner he may." The more especially should he have said and acted in this manner, after those threats which I suppose to have given rise to General Scott's expedition to New York.

But, sir, this whole mission has been marked, throughout, not more by the most morbid and misapplied sympathy, than by the novelty and inconsistency of the duties which it imposed on the Attorney General. It is the duty of that officer to *prosecute*, not to *defend*, criminals; to give counsel to our President, and to the heads of departments—not to traverse the country for the release of foreign felons, who, at the dead hour of midnight, by boats propelled by muffled oars, invade our territory, burn our property, and imbue their hands in better blood than ever flowed in English veins.

Such are the duties of the Attorney General, as declared by the statute of 1789. What duties were assigned to him in this degrading mission—degrading to him who sent, and to him who was sent? You may find them in page 25 of document No. 1.

"The President is impressed with the propriety of transferring the trial from the scene of the principal excitement to some other and distant country. You will take care this be suggested to the prisoner's counsel.

"Having consulted with the Governor, you will proceed to Lockport, or wherever else the trial may be holden, and furnish the prisoner's counsel with the evidence of which you will be in possession, material to his defence. You will see that he have skillful and eminent counsel, if such be not already retained; and, although you are not desired to act as counsel yourself, *you will cause it to be signified to him*, and to the gentleman who may conduct his defence, that it is the wish of this Government that, in case his defence is overruled by the court in which he shall be tried, proper

steps be taken *immediately* for removing the cause, by writ of error, to the Supreme Court of the United States."

You perceive, sir, that he was not to go as *public*, but as *secret counsel*—not to plead for McLeod *himself*, but to see that he had *others*, "skillful and eminent," to do so; that he was to furnish him with testimony; and, above all, in case of conviction, that it was the *wish* of the *Government* that the case should be taken to the Supreme Court of the United States; that the prisoner's counsel was to be *told* that such was the wish of the *Government*.

The defendant, it was supposed, might not feel sufficient anxiety to save his neck from the halter by appealing to a higher tribunal, and must, therefore, be encouraged to do so by the assurance that the *Government wished* him to do so.

Mr. Attorney General *is to signify* to him that he had better appeal than die!

Mr. Speaker, I pause to ask if, after this, you can believe that wonders will ever cease? At all events, can you believe they are likely to cease during this life-preserving, felon-saving *branch* of this Administration? I say nothing of its head, who had come in too unexpectedly, and was surrounded by too many perplexities at that period, to be presumed to have given much attention to this subject; but I speak emphatically of this *branch* of the Administration.

Mr. Speaker, I wish now to call your attention to the remaining clause of this resolution, to wit: "whether the British *Government* has been given to understand that McLeod will be released or surrendered."

It is probable that the President can give us but little more than the information contained in his message. I shall, therefore, under that supposition, submit my views on the merits of the McLeod case, and the course pursued by the Secretary of State in the correspondence, as it now stands.

To understand the merits of this case, and to judge of the propriety or impropriety of the course pursued by Mr. Webster in it, we must have a clear and distinct understanding of the facts. For these, I refer you to the speech of the honorable chairman of the Ways and Means at the last session; to the statement of the case made by Mr. Webster himself; and,

lastly, to a condensed and nervous statement of them in the other end of the Capitol, which has never been denied or contradicted *there* or on this floor.

"This brings me to the case before us. What is it? The facts of the case are all spread out in official documents, and the evidence is clear and undeniable. An American steam ferry-boat traverses the Niagara river; she carries passengers and property from one shore to the other. The English believe (and perhaps truly) that she carries men and arms to the insurgents in Canada; and without any appeal to our Governments, either State or Federal—without applying to us to put our own laws in force against her—an English officer, of his own head, without the knowledge of the British Government, determines to do—what? Not to watch the suspected vessel, arrest her in the fact, seize the guilty and spare the innocent; but to steal upon her in the night, board her asleep, and destroy her at the American shore, under the flag of her country. In the evening of the meditated outrage volunteers are called for—fifty or sixty dashing, daring fellows—ready to follow their leader to the devil,—for that was the language used; and it proves the expedition to have been a diabolical one, and worthy to be led as well as followed by demons. The arms were sabres and pistols; the season of attack, midnight; the means of approach, light boats and muffled oars; the progress slow, silent, and stealthy, that no suspicious sound should alarm the sleeping victims. The order was *death and no quarter*. Thus prepared and led, they approach the boat in the dead of the night—reach her without discovery—rush on board—fly to the berths—cut, slash, stab, and shoot all whom they see—pursue the flying, and, besides those in the boat, kill one man at least upon the soil of his country, far from the water's edge. Victorious in an attack where there was no resistance, the conquerors draw the vessel into the midst of the current, set her on fire, and with all her contents—the dead, the living, the wounded, and the dying—send her in flames over the frightful cataract of the Niagara. McLeod, the man whose release is demanded from us, was (according to his own declarations, made at the time in his own country, repeated since in ours, and according to the sworn testimony of one of the survivors) an actor

in that piratical and cowardly tragedy. According to his own assertions, and the admission of his comrades, he was one of the foremost in that cruel work, and actually killed one of the 'damned Yankees,' (to use his own words,) with his own hands."

—*Mr. Benton's speech in Senate United States.*

Now, sir, on these facts, which it warms one's American blood to recite, can this band of merciless desperadoes be liable to punishment under the laws of New York, where their crimes were perpetrated? To my mind, after the best examination I have been able to give to the subject, there can be but one response. McLeod, one of the perpetrators, is answerable, unless he can show that it was a public military expedition, set on foot by the proper authorities in Canada, with or without a previous declaration of war against this country, commanding the specific things to be done for which he now stands indicted in the State of New York. I repeat—commanding the specific things to be done for which he *is indicted*.

In time of open public war, such *authority* would be *presumed*. The courts would look to the *public acts, proclamations, declarations of war*, and other proceedings of notoriety; and out of these would find immunity to the individuals engaged, whilst the *Government* would retaliate on the enemy by like incursions into their territory. But in time of *profound peace*, with all subsisting treaty stipulations of amity in full force, no such *presumptions* can be resorted to. *Express, positive, and unequivocal* commands from *competent* authority are all that can justify him. Were such commands given? The whole case turns upon *that fact*. The case will turn on that fact in the courts of New York. The prisoner must come forward with the orders of Sir Francis Head, I believe then Governor General of Canada. If not direct from him, he must show order from some military commander who issued them, and who received *his* orders from the supreme Colonial Government. Further back than *that* it would not be necessary, as I conceive, to trace the orders. If such orders covered and embraced the specific act for which he was indicted, the courts of New York *will* and ought to discharge him. But if the orders were general, "to break up the establishment at Navy Island," that would not do; or if they were "to destroy any vessel convey-

ing insurgents to or from the island," that would not do. If they were "to take any steps, and to do any acts, which might be necessary for the defence of her Majesty's territory, or for the protection of her Majesty's subjects," such orders would not do. They would not justify an *invasion* of our *territory*, nor the burning of a vessel lying peaceably moored to our own shores, with no military stores, and with no troops for transportation. *No prior* use of the boat and no prior conduct of her crew could justify the attack, because not essential "to the defence of British territory nor of British subjects." It might be an act of *revenge* for the past, but it could not be necessary for protection in future.

In any event, *capture* without *burning*, *capture* without the *murder* of her crew, would surely have been all that could have been necessary. But, sir, when only ordered to defend British territory, they come at the dead hour of midnight and *invade* American soil; when only ordered to protect British subjects, they shoot, and stab, and murder American citizens—instead, at most, of taking and towing the vessel over to the British side, and detaining her until the insurgents were expelled from the island, they tow her out to the middle of the river, set fire to her, and thus commit to the flames the remaining portion of her crew, sending them and the blazing wreck over the mighty falls of the Niagara. Sir, place yourself in that dark and bloody night, on the shore of that river, standing proudly as you would do on American ground. In the stillness of that night, listen to the landing of hostile soldiers on our shores, to the attack on one of our vessels; hear the groans of our dying countrymen: a moment after, look at that blazing sheet of fire, slowly moving on to the dreadful cataract, till at last it makes its awful leap on the floods below.

Sir, the waves of Niagara have extinguished the fires of that vessel—they have silenced forever the agonizing shrieks of her remaining crew; but the cry of vengeance still comes up from her deep and agitated bosom, in tones louder than the thunder of her own mighty cataract. I carry you back to that midnight scene—the tramp of British soldiers; I point you to the dead bodies of your countrymen—to the blazing victim of the falls. Contemplating all these things, in the stillness

of that night, can *your* heart find one throb of approbation to the cold, unfeeling diplomacy—to the tame and ready submission of the American Secretary of State?

Submission to what? I answer, first. To the impudent menace or threat of the British Government. Do you ask me what he should have done? I answer, that he should have stopped all negotiation at once—instantly have stopped it—until that menace was withdrawn. I answer further, that the *least* he should have done would have been, the moment the British Government avowed her approbation of the act, he ought to have *retorted* her own language of *peremptory* demand of *satisfaction*, and to have flung back her own menace of the *serious consequences* of a refusal. This, sir, is the least he should have done on that proud and insulting occasion. What else should he have done? Answering at all, he should have said to Mr. Fox: Your avowal of this act by the British Government is *vague, prevaricating* and *unsatisfactory*.

I ask your attention, and that of this House and nation, to the precise words of that avowal:

“ The grounds on which the British Government make this demand upon the Government of the United States are these: That the transaction on account of which Mr. McLeod has been arrested, and is to be put upon his trial, was a transaction of a public character, planned and executed by persons duly empowered by her Majesty’s colonial authorities to take any steps and to do any acts which might be necessary for the defence of her Majesty’s territories, and for the protection of her Majesty’s subjects; and that, consequently, those subjects of her Majesty who engaged in that transaction were performing an act of public duty, for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country.”

These are the precise words of the British minister. It is fair to presume that they are the precise words of the orders of Colonel McNab, under whom McLeod was acting. Well, sir, suppose these *orders* to be before us now, or before the courts of New York on the trial: will such orders cover the case of McLeod? Will they justify the *burning* of the Caroline, the invasion of our territory, and the murder of our people? Surely not; because these *acts* did not come within the scope of their *orders or authority*. They were only authorized or ordered to do such *acts* as were necessary for the “*defence* of her territory,

and the protection of her Majesty's subjects." The things done, and for which he stands indicted, were for none of these purposes ; and they, therefore, stand without excuse or justification, because they *exceeded* their authority. When is it that *individuals* by the law of nations, are exempted from municipal liability in such cases? It is only when the act done was by the *command* of the sovereign. Of course that command must *precede* the act, and must clearly and satisfactorily cover it. Sir, Vattel, nor Grotius, nor any other writer on the laws of nations, any where lays down the doctrine that *subsequent approval*, without previous *commands*, would excuse the individual committing the crime. Such a doctrine would perish by its own absurdity. It is true that a *subsequent approval* may also involve the nation, and, in the language of the books, "make it a matter of *public concern*"—as it was, before that avowal, only one of *individual concern*. This, however, only adds another party to the controversy, without releasing the first. Hence it is said by Vattel, "if the offended State has in her power the individual who has done the injury, she may, without scruple, bring him to justice, and punish him."

This case from Vattel is precisely the case of McLeod. He was, to say the best for him, but the servant, or agent, or soldier of the Canadian Government, ordered and sent to do one thing, to wit: to defend the British territory, and protect the British subjects ; but exceeding his authority—going beyond his orders—he invaded our territory, burnt our property, and murdered our citizens. He fled back to his own country ; and, if he had remained there, our only recourse would have been to demand him of the British Government. When demanded, if the British Government refused to surrender him, she would have made it a "public concern," and we might have looked to her for satisfaction for the *refusal*; not for the original act of her subject, but for the *refusal*; and the measure of satisfaction for that *refusal* would justly be, indemnity for losses sustained by the original act. But if, before, or pending, or subsequent to such a demand, the individual returns within our jurisdiction, we may hold him responsible for his transgression of our laws, and punish him accordingly. When *that* is done, the original offence is atoned for. No double satisfaction for

that can be demanded ; but we should be still at liberty to proceed for the subsequent *refusal*, according to the circumstances of aggravation attending it.

But, sir, I repeat, that nothing short of a previous order to do the specific act complained of, given by competent authority, can save McLeod in the courts of New York. No subsequent approval of it by the British Government *can* do it. McLeod will find it so on his trial ; and the American Secretary of State should have told the British Government so, and should have *demanded* the production of the original order, or a copy of it, so as to see precisely its extent and operation. And here is my highest objection to the conduct of our Secretary of State. He never had the fearlessness to say to England, " Show me your order to this man or his leader ; show me that—its date, its every word—that my Government may see whether these crimes are yours or his. If yours, the courts of New York, in due season, will send him home unharmed and uninjured, whilst I will hold you instantly responsible for his conduct."

This is what Mr. Webster, in my humble opinion, should have said and done. What did he say and do? He affects to see no distinction between a prior order and a subsequent approval of the conduct of McLeod. *In fact*, he substitutes the latter for the former, and, with indecent haste, gives the British Government to understand that the claim of New York constituted *the only* difficulty in the way of an instant compliance with its demand. What more? Why he gives Mr. Fox a copy of his instructions to the Attorney General, and thereby informs him of the hasty and extraordinary means by which he was endeavoring to snatch McLeod out of the hands of New York, the only remaining obstacle to his surrender.

Sir, Mr. Fox saw at once that his threat had told—the British ministry saw the same thing—the British Parliament saw it—and they are all now waiting in full assurance the heroes of Acre will have no opportunity to increase their laurels on the coast of America.

But, sir, they may be mistaken after all. There is but one thing can save him on his trial. If indeed he were absent from

the scene of these outrages—if indeed he was no member of that “public force,” he will and ought to be acquitted.

But the Supreme Court will require him, as Mr. Webster ought to have done, to produce the *order* under which the party acted. They will look closely to the extent of that *order*; and if that *order* was *exceeded*, he must die. No subsequent approval of the British Government can shield him—no oversight of the American Secretary can set aside the strict and impartial administration of Justice. Die he must; and all the thunder of the British navy cannot frighten the American people from approving and applauding the sentence.

If such should be the fate of McLeod, there remains but one question to be considered—and that is, one of peace and war. Will Great Britain feel bound and pledged to declare war against this country to avenge his death? Sir, England would never have thought of such a thing, but for the timid policy and unwise admissions of the Secretary of State. As it is, she may, and probably will, venture to appeal to that “*ultima ratio regum*”; and, sir, in the very declaration in which she appeals to arms, she will present the correspondence of our own Secretary to vindicate the act. She will spread it before all Europe as her justification, and will engrave it on the very banner under which she will march to the conflict.

Mr. Speaker, it is to avert the horrors of war that this apparent severity of remark on the course of the Secretary has been indulged in; and, if it must come, we wish to rescue the country from the imputation of having induced it, by having too tamely surrendered the rights of our citizens.

It is not too late yet for Mr. Webster to review the fatal admissions he has made, and to place this correspondence on a more elevated and more defensible foundation. If no exhortation on this floor can prevail with him, let him learn it from Lord Palmerston himself. Let him learn it in the reply of that nobleman to Lord Stanley in the British Parliament on the 9th of February, 1841. On that occasion he stated:

“With regard to the ground taken by Mr. Forsyth, in reply to Mr. Fox, I think it *right* to state that the American Government *undoubtedly* might have considered this transaction either as a transaction to be dealt with between the two Governments, by demands for redress by one to be granted

or refused by the other, and dealt with accordingly : or it might have been considered, as the British authorities consider proceedings between American citizens on the British side of the border,—*as matter to be dealt with by the local authorities.*

“ But the American Government chose the former course, by treating this matter as one to be decided between two Governments ; and this is the ground on which they are entitled to demand redress of the British Government for the act of its subjects ; and from that ground they cannot be permitted to recede.”

Sir, here is an admission of our original right to seize and punish McLeod, infinitely stronger than is any where asserted by Mr. Webster ;—an admission but little weakened by the sophistry which seeks to show that this original right had been lost by an appeal to the British Government for redress. That redress has never been granted—nay, it has not even been promised ; and, therefore, upon every known principle this Government stands remitted to her original right to punish McLeod whenever she can get hold upon him. She has him now. She recurs to that admitted original right, notwithstanding its surrender by Mr. Webster.

I wish now to refer to another speech of Lord Palmerston, in reply to Mr. Hume in the same debate. He said :

“ With regard to Mr. Forsyth’s letter, I beg leave to say that the principle stands thus : In the case of the American citizens engaged in invading Canada, the American Government disavows the acts of those citizens, and states that the British authorities might deal with them as they pleased, and that they were persons who were not in any degree entitled to the protection of the United States. But in the other case they treated the affair of the Caroline as one to be considered as that of the Government, and not to be left on the responsibility of individuals. Until, therefore, the British Government disowned those persons, as the American Government disavowed their citizens in the other case, they would have no right to change their ground on the question.”

Now, sir, observe the position taken in this last extract by Lord Palmerston. Until the British Government *disown* the persons who made the attack on the Caroline, they were not to be treated as the British authorities treated the Americans taken on the Canada side. And how was that ? By making them responsible to the local authorities. And why not treat them on both sides alike ? Because we have not *disowned* our people, say they, as you have done yours. But if you have

not *disowned* them, have you ever *owned* them, or acknowledged their acts to be yours? No, never.

For two years we demanded of the British Government to say whether it did or did not disown these persons; but she utterly failed during all that time to say whether she did or not. In the mean time, whilst she is standing mute and will not utter a single word *either way*, McLeod returns to the United States, impudently brags of his exploits in the affair, is arrested, and confined for trial. Up to this time, we could not get England to say a word on the subject; but now she comes very suddenly to her speech. One of her felon subjects is about to get the rope around his neck, and she speaks up at once with full volatility. Is she entitled to her demand? Is she entitled to take *our* people on her side of the border, and hang them up at the yard-arm or shoot them like dogs; whilst *her* people, taken on our side, with their hands yet reeking with the blood of our fellow-citizens, may stalk, and strut, and vapor through our land, with utter impunity?

Sir, Mr. Webster virtually says all this may be done. He virtually surrenders the rights and privileges of our border citizens, and lays them exposed to every marauding expedition that may be set on foot against them in Canada. But, sir, were this the last public act of my life, I would protest against his doctrines, and appeal from his decisions.

## S P E E C H,

*On the Tariff, delivered in the House of Representatives,*  
June 18, 1842,

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The House having resolved itself into Committee of the Whole, and the bill reported by the Committee of Ways and Means, and that by the Committee on Manufactures, together with the amendment offered to the latter by Mr. HADERSHAM, being under consideration—

Mr. A. V. BROWN addressed the Committee as follows:

Mr. CHAIRMAN: I have searched most diligently for some redeeming virtue in the two bills reported by the committees, which might so far reconcile me to their provisions as to excuse any participation on my part in their discussion. But I have searched in vain. I can find nothing—literally nothing—to rescue them from the deepest and most unmitigated abhorrence. They both seek to revive the odious principle of direct protection, and to repudiate the most solemn and sacred covenant ever entered into since the formation of the Federal Constitution. But I mean to speak only to *one* of these bills—to the one reported by the Committee on Manufactures. That, sir, is the one which the dominant party in this House mean finally, by the mere power of numbers, to force upon the people of this country. I will not speak to the Ways and Means, for they would not speak to their own bill—having thrown it upon the House, without any report illustrating its principles, or explaining its details. They seem to have gotten it up on the spur of the occasion, and to rely on nothing for its support but the enormity of its exactions, and the poor device which they have labelled on its front—that it is a bill *for the raising of revenue*.

Mr. Chairman, by the act of 1833, all the duties above twenty per cent., by whatever law imposed, were brought down to that amount; and, by the act of 1841, all duties below twenty

per cent. were raised to that rate, with the exceptions contained in the act.

By these two acts, we have a full, complete, and perfect tariff system, for the supply of the treasury, without further legislation on the subject. Hence it is that I assume the position, that beyond the correction of the error of last session, in regard to the list of free articles, and the enactment of a few obvious provisions in relation to home valuation, we ought to have nothing to do with this delicate and exciting subject. To take it up for thorough revisal, and the establishment of a higher rate of duty, I hold to be an act of legislative perfidy, which can find no parallel in the history of this country. To no member here can it be necessary to refer to the fierce collision of parties on the tariffs of 1816, 1824, and 1828. It is enough to say that, in every conflict, the doctrine of protection was victorious. What sort of protection? Was it only incidental? or was it claimed as a distinctive and independent principle of the Constitution? Let the father of the whole system tell you. Hear him who, in 1833, informs us that he had cherished it with paternal fondness, and that his affections even then (though he had been compelled to abandon it) were undiminished. Replying to Mr. Webster, who was then separating from him on the compromise act, he says: "all that was settled in 1816, in 1824, and in 1828, was, that protection should be afforded by high duties, without regard to the amount of the revenue they would yield." Mark the emphatic admission of Mr. Clay—"protection without regard to revenue." It was on this very ground that all three of these acts had been so warmly opposed; but yet there was no declaration on their face that such was their object. The doctrine dared not to show itself there, lest the judicial tribunals of the country should pass sentence of condemnation upon it. No, sir; it skulked behind the revenue power, meanly evading the just and manifest principles of the Constitution. Such a device could not long be sustained, nor its enormous exactions endured. It disquieted and almost convulsed the country. It filled the land with apprehensions of ruin and disaster on the one hand, and civil war on the other. It became so abhorrent to the American people, "that he who had sustained it with paternal fond-

ness," could sustain it no longer. He came forward with the compromise act of 1833. He declared that the American system of protection must go down. He saw it in the deadly blows which President Jackson was dealing upon it—he saw it in the solemn protestations of every southern State in the Union—he saw it in the determined spirit of resistance in South Carolina—and, more than all, he both *saw and felt it* in the then recent elections, which had all gone against him and his friends. Under this thorough conviction, (so thorough, that no argument of Mr. Webster, his great compeer in establishing the system, could shake or remove it,) Mr. Clay came forward with the compromise.

I pause here, Mr. Chairman, in order that you may consider the position of the two great parties of this country at that eventful moment. The one was insisting on the permanent continuance of the protective system; the other was boldly demanding its *instant* repeal and total abandonment. Now, the compromise was to reconcile these hostile parties—to find some middle ground on which both could stand, and the Union be preserved. Mr. Clay himself remarked on the occasion: "I am anxious to find out some principle of mutual accommodation, to satisfy, as far as practicable, both parties; to increase the stability of our legislation; and, at some distant day, (but not too distant, when we take into view the magnitude of the interests which are involved,) to bring down the rate of duties to that revenue standard for which our opponents had so long contended."

Here, sir, is an open and distinct avowal of the objects and purposes of the compromise. That it was intended by him to be a permanent settlement, not of the details, but of the great principles of the future tariff legislation of the country, I refer, for further illustration, to his arguments addressed to his manufacturing friends in favor of its adoption:

"The most that can be objected to the bill by those with whom he had co-operated to support the protective system was, that, in consideration of nine and one-half years of peace, certainty, and stability, the manufacturers relinquished some advantages which they now enjoy. What was the principle which had always been contended for in this, and in the other House? That, after the accumulation of capital and skill, the manufacturers would be able to stand alone, unaided by the Government, in competition with

the imported articles from any quarter. Now, give us time; cease all fluctuations and agitations for nine years; and the manufacturers, in every branch, will sustain themselves against foreign competition. If we can see our way clearly for nine years to come, we can safely leave posterity to provide for the rest. If the tariff be overthrown, (as may be the case at the next session,) the country will be plunged into extreme distress and agitation. I (said Mr. Clay) want harmony; I wish to see the restoration of those ties which have carried us triumphantly through two wars; I delight not in this perpetual turmoil. Let us have peace, and become once more united as a band of brothers."

Sir, I have made these extracts and references in order to remind this House, and this country, of the true object and extent of this compromise. It was accepted. When he, [Mr. CALHOUN,] who had as strenuously opposed, as Mr. Clay had supported the system, rose up in his place in the Senate chamber and accepted it, the galleries responded in tumultuous approbation. The whole nation responded with joy and acclamation. The assent of Congress, and the approbation of the President, soon crowned this noble act of concession on both sides, and the process of reduction commenced. It has progressed through all the stages of the law, until we are now within a few days of its entire completion. Yes, sir; and when the 30th of this month shall have arrived, the whole South and Southwest can rise up as one man, and proudly boast that, although their burdens were great, and the process of alleviation slow and tedious, yet they have adhered to the covenant, not only in the spirit, but to the very letter of it.

But, sir, when that day shall come, and this bill shall have been passed, what can the North say? Can she point to the same preservation of her plighted faith in vestal purity and honor? No. I repeat, if this bill be passed, she can do no such thing. The bill itself would wring from her inmost soul the reluctant confession, that she had adhered to the compromise only whilst it was profitable, and cast it off the moment when the other party was to have entered on its enjoyment.

The present distinguished Governor of Massachusetts seems to have contemplated the possibility of something of this sort.

"Suppose, then," (said he, in the House of Representatives,) "that South Carolina should abide by the compromise, whilst she supposes it

beneficial to the tariff States and injurious to her; and when that period shall close, the friends of protection shall then propose to re-establish the system: what honorable man who votes for this bill would sustain such a measure? Would not South Carolina say, You have no right to change this law—it was founded on compromise; you have had the benefit of your side of the bargain, and now I demand mine? Who could answer such a declaration? If, under such circumstances, you were to proceed to abolish the law, would not South Carolina have much more just cause of complaint and disaffection than she now has?"

What Governor Davis, then a Representative in Congress, said and asked in relation to South Carolina, might have been said and asked of all the other anti-tariff States. It was no compromise between individuals—it was one between large sections of the Union. It was a compromise between opposing interests; and neither can abandon it with honor, until each has enjoyed it for at least an equal period of time. Sir, I repeat, (because the sentiment has left an indelible impression on my mind,) that the North cannot repudiate this contract, after having pocketed millions upon millions under it. Mr. Clay himself, whatever he may do now, could not then submit to the degrading anticipation. In the speech which ushered the compromise act before the world, he said:

"But if the measure should be carried by the common consent of both parties, we shall have all security. History will faithfully record the transaction—narrate under what circumstances the bill was passed; that it was a pacifying measure; that it was as oil poured from the vessel of the Union, to restore peace and harmony to the country. When all this was known, what Congress, what Legislature would stir the guaranty? What man, who is entitled to deserve the character of an American statesman, would stand up in his place, in either House of Congress, and disturb the treaty of peace and amity!"

Mr. Chairman, I know not how this bill can escape the stern and withering rebuke contained in these extracts, but by the denial that it does revive the protective system, so distinctly and solemnly renounced by the compromise. True, it is not expressly revived, in *terms*, on the *face* of the bill. Its advocates, like those who originally established it, are too sagacious thus to label its unconstitutionality on its front. Like them, they hide its protective character from judicial detection. Still, sir, no man can doubt the fact, who will look either at the origin of the bill, the evidence on which it was prepared, or the

rate of duties it establishes. I propose to examine and test it in all these particulars.

In the first place, it was prepared and reported by the Committee on Manufactures and not by the Committee of Ways and Means. It is the peculiar business of the latter committee to look after the condition of the treasury, and to see that it is kept in condition to meet all the appropriations made by law; but the Committee on Manufactures, as its very name imports, has no such duties assigned to it. Its whole structure, for a long series of years, evinces no purpose connected with the revenues of the country. Look at the constitution of the present committee. Massachusetts has one, Vermont one, New York one, New Jersey one, Pennsylvania one, and even little Rhode Island one; whilst there were only three from the whole Union beside. Now, sir, why this amazing disproportion in favor of the Northern States? Evidently because they were manufacturing States, deeply interested in the deliberations of the committee. The States of Maryland, Virginia, the Carolinas, Georgia, and Alabama, were agricultural States, and therefore were supplied only with two members; whilst the whole West—all the ten or twelve States lying on the majestic Mississippi and its noble tributaries—had only one member of the committee. No one here, I hope, will be so ungracious as to suppose that the Speaker ever constituted such a committee with the slightest reference to the raising of revenue. No, sir, the Speaker could never have had such purpose. But the tariff party of this House, ever watchful of such things, looked over the committees, after their appointment, and found, in the structure of that on manufactures, one more favorable to their views than the Committee of Ways and Means.

By the closest concert of action, they wrested the President's message from the Committee of Ways and Means, to whom it rightfully belonged, and transferred it to the Committee on Manufactures. So much for the geographical structure of the committee. I now ask, upon whose and what sort of evidence was this bill prepared? Was it on the oral or written statements of the Secretary of the Treasury, of the wants and condition of the treasury now, or for years to come? No, sir; we heard not a word from him. Was any witness called, or

statement received, on the subject? Not one. Even the report of the majority of the committee glances but slightly over the subject of revenue, barely saying enough about it to save even a decent appearance. Sir, the information on which this bill was prepared, was derived wholly from the manufacturers—several of them the same persons who were here in 1828. The majority of the committee have complained of the House on the subject of testimony. I now complain of *them*. The House refused to give them the power to send for witnesses: they determined they would have them without sending after them. The House refused to give them power to qualify witnesses in the case: they determined to take their testimony without oath. Nay, more: the House amended their application, by saying that none but disinterested witnesses should be examined, and then laid their proposition, so amended, on the table. In the face of this solemn decision of the House—made by ayes and noes—the majority of the committee determined they would examine witnesses *directly interested* in the case—men whose daily bread or annual profits on their capital depended on the answers which they were to give. Was anything like this ever heard of in the proceedings of any of the courts of this country—to receive testimony from those directly interested? Sir, it was never before heard of in any investigation where truth was to be obtained, or justice to be administered. Let me not be told—as I was on a former occasion, when I had no opportunity to reply—that none can know the facts as well as the manufacturers themselves. True; and it often happens that no one knows some material fact so well as the plaintiff or defendant in a civil action: and yet you would never examine either of them to prove such fact in his own favor. So, in criminal cases, none know the facts as well as the culprit himself; but yet you never examine him on trial for his own justification. But I go beyond these analogies, and maintain that this country is filled with persons who have discontinued or retired from manufacturing establishments, or who are otherwise well-informed and impartial on all the subjects within the range of our investigation. So far from having called on such as these, not a single

person whose statement was received is now recollected, who was not deeply interested.

Here, then, are two important facts, that six out of nine of the committee were from manufacturing States; and the testimony on which the bill was constructed, furnished by interested manufacturers, who have voluntarily left their homes, and travelled great distances for that purpose alone. And from both of them I infer that the protection of manufactures was the controlling consideration in the preparation of this bill. But, sir, I will now look into the bill itself for intrinsic evidence of the fact. We have the evidence of Mr. Clay himself, that "all that was settled in 1816, 1824, and 1828, was, that protection should be afforded by high duties, without regard to revenue." Now, test this bill by that of 1828, and see what a vast number of articles are now to pay the same duty as in 1828, or so nearly the same as not to change the *protective* character of the duty.

I will present you with the following list of comparative duties:

	October, 1828.	Present bill.
Cloths and cassimeres, 33½ to 45 per cent.	40.	cts. sq. yard.
on various minima.		
Other woollen manufac-		
tures - - - - same	40	do.
Flannels and baizes - - 14 sq. yard.	14	do.
Clothes ready made - - 50 per cent.	50	per cent.
Brown sugar - - 3 cts. 3 lb	2	cts. 3 lb
Lead, pig, - - 3 do.	2½	do.
Cordage, tarred - - 5 do.	5	do.
Copper, rods and bolts - 4 do.	4	do.
Iron, cables and chains - 3 do.	2	do.
anchors - - 2 do.	2	do.
nails - - 5 do.	4	do.
anvils - - 2 do.	2	do.
castings - - 1½ do.	1½	do.
sheet or hoop - - 3½ do.	2½	do.
Shoes, silk - - 80 cts. pr pair.	25 cts.	per pair.
prunella - - 25 do.	20	do.
leather - - 25 do.	20	do.
Boots and bootees - - \$1 50 do.	\$1 25	do.

To this list might be added a great number of other articles.

which are taxed at rates precisely the same as by the act of 1828, or so nearly the same as to leave no doubt that this bill, in its general structure, is highly protective. I beg leave to present another short statement, which, I think, can scarcely fail to convince the most skeptical.

*Table of duty per cent. on certain articles of British manufacture, calculated upon the cost of manufacture, according to the tariff of 1818, 1832, 1833.*

	Cost per yard.	Tariff of 1828.	Tariff of 1832.	Tariff of 1833.	By compromise tariff after June, 1842.	Proposed.
Sheetings	6 cs.	145	125	112½	20	120
Checks	8	109	109	100	20	100
Calicoes	12	72	72	66	20	55
Flannels	15	150	106	87½	20	100
Baizes	25	90	64	66	20	100
Kerseymeres	31 25	90	50	47	20	70
Bar iron per ton	38 40	100	112	88	20	100
Coal, do	2 40	50	50	69	20	75

Mr. Chairman, what plea or apology can be offered for such a wanton breach of the compromise, as I think these tables establish? In the first place, it is said that without the proposed increase of duties beyond the rates agreed on in 1833, some of the manufactories cannot exist at all, whilst others cannot realize reasonable and satisfactory profits without it. In reply, I do not hesitate to say that some of them ought to go down. One of the crying evils of this manufacturing system is, that nothing can be attempted in foreign countries which is not soon essayed to be imitated here. No matter what it might be—however unsuited to our condition—it must be tried, under the favorite principle, that if it be found that it cannot succeed in this country by its own merits, we have only to insert a new clause in the tariff bill for its protection, and thereby make it a profitable concern. It were better, far better, for our countrymen to betake themselves to the substantial and useful branches of manufacturing, which can and will succeed by their own intrinsic importance, rather than be running after

the many useless and silly inventions of the Old World. Let me give you an example. Some years ago, the manufacture of patent steel pens was commenced abroad, where it might have been, probably, well enough. But straightway some of our Yankee friends took it into their heads that they could carry on the same business here. Well, away they went at it, and succeeded in making quite a superior article; they monopolized, for awhile, all the common-school patronage of the Northern States. Presently, however, the foreign article began to come in cheaper in price, and quite as good for use, superseding, in a great degree, those manufactured here at a much higher cost. All this has been of recent occurrence; and, accordingly, at the present session, we had before the committee the American manufacturer begging for protection against the foreign article; in other words, asking Congress to impose a tax on all the poor and orphan children of those States for his benefit. Sir, it would have been better for those children to have raised, by contribution, a sufficient sum to buy out this man's establishment, and to have cast it into the Hudson, than for Congress to have granted his petition. If a mechanical business of no more importance to the country than that, cannot support itself without the aid of unjust and excessive taxation, let it go down; and let those engaged in such betake themselves to agriculture, to commerce, or to other mechanical employments of greater importance. I could furnish many such cases all showing a strong inclination to avoid the more laborious pursuits of life, and to resort to every light and trivial handicraft, whether the situation of the country, or the price of labor, will justify it or not.

Mr. Chairman, let us not lose sight of the precise objections to the rate of duties established by the compromise act, which we are now considering. I entertain no hostility to the manufactories of the United States. I cherish, for the valuable and important ones, the very highest regard; but the light and frivolous ones I am willing to see go down to-morrow. There are more noble and invigorating employments, throughout this broad land, for all who may be engaged in such. But to the important ones, I will cheerfully give all the incidental advantages which the collection of the national revenue can bestow.

Such incidental encouragement is given by the compromise, and, I contend, is entirely sufficient to sustain the chief manufacturing interests of this country—such as the woollen, the glass, the leather, the cotton, the iron, &c.

That act allows three distinct points of incidental protection:

1st. It imposes a duty of 20 per cent. *ad valorem*, or on the value of the goods imported.

2d. It provides that that value shall be fixed in reference to our own markets, instead of those of foreign countries, as was the case before the compromise.

3d. That the duties shall be paid down in cash, instead of being secured by bond, on a credit, as formerly.

This is the rate of duties, and the extent of protection, for which I contend, and those with whom (with few exceptions) I am politically acting. We find this rate of duties already existing and established by law—a law intended, by those who established it, to be fixed and permanent; a law which he who proposed it [Mr. Clay] denominated “a treaty of amity and peace;” which no man, who was entitled to deserve the character of an American statesman, would dare stand up in either House of Congress and disregard.

Now, sir, as to the ability of the manufacturing establishments to sustain themselves at the rate of duties which we are insisting on.

The rate of twenty per cent. *ad valorem* on the home valuation, including something for cash duties, I estimate as equivalent, at the least, to twenty-five per cent.

For illustration: An article is purchased in Liverpool at a cost of \$100. But the same article, when brought to this country, may be fairly worth \$120. Now the duty is not to be laid on the \$100, its cost abroad; but on the \$120, its value here—making a difference in favor of the manufacturers of four per cent. Making some little allowance, also, for the payment in cash, instead of credits, I assume twenty-five per cent. as the actual rate or degree of protection incidentally afforded by the compromise act. In the allowance of twenty per cent. as the difference between the foreign and home valuation, I estimate transportation, insurance, &c., to be equal to about ten per

cent.; and the other ten are allowed for profits. The question, then, recurs—is this duty of twenty-five per cent. a sufficient protection to enable the manufacturers to sustain themselves?

Sir, it must be, at the first blush, exceedingly strange if they can not. What! not keep up, when the Government grants them an advantage of one-fourth over all foreign competition! Not keep up, when the Government turns every \$4,000 of their products into \$5,000; every \$40,000 into \$50,000; and every \$80,000 into \$100,000! for that is precisely the effect of the duty imposed on the foreign producer. Still, however, great as this advantage is, the statements laid before the committee insist that, if the compromise act (equal, as I have stated, to twenty-four or twenty-five per cent.) shall go into effect, most, if not all, of our manufactories must go down. Mr. Chairman, I am free to declare that I do not believe these statements. They are made by men deeply and directly interested—whose wealth or poverty was at stake; made without any sanction of an oath, and with no direct responsibility whatever. Manufacturing, like almost everything else, has been over done. The high and exorbitant protection of former times has induced *too many* to rush into the business; and, on this account, I dare say, many establishments will have to go down—not for the want of adequate protection, but for want of real capital originally. All the moneyed fictions of the day are now vanishing, and none but the real, substantial capitalists can stand the shock. Even some who had such capital, have lived in such luxury, or so disregarded the wholesome suggestions of a prudent economy, that they must and will be compelled to go down. So it is with all the other pursuits of life. Like causes of imprudence and extravagance have ruined them in like manner. But I do firmly believe that our woollen, cotton, iron, glass, leather, and all our important manufactories, can be sustained at a duty of 24 or 25 per cent.; all, certainly, that are located under favorable circumstances, and are conducted with that industry and rigid economy which characterized this country before the late *inundation* of extravagance, speculation, and folly. None of them may realize the same extent of profit as formerly; but they must be content with less: all our occupations must be content with less. The farmers, graziers, and plan-

ters, have long since become content to realize 3, 4, or 5 per cent. on their investment in land, stock, laborers, &c. If, however, 25 per cent. will not do, rather than increase the duty on the consumer, and thereby add to the burdens of those who are already sufficiently prostrated, I would recommend the suggestion contained in the minority report:

"The valuable principle of our Government is equal rights and equal protection to all. If you encroach upon the rights or interests of one for the benefit of another, you violate this great principle, which lies at the very foundation of the Government. Why sacrifice any? The duty on wool, by the proposed bill, is twenty-three per cent. ad valorem, and four cents per pound. Strike off the four cents, (leaving, under my proposed rate of duty, twenty-five per cent.) and you add to the profits of the wool factory of Dutchess county (above referred to) \$7,000, or five per cent., on the capital, and still leave twenty-three (twenty-five) per cent. ad valorem, as a protection to the wool-grower. Strike off a part of the duty proposed on pig-iron, and you add to the profits of all the workers in iron in the United States, and still leave the producer a heavy protection. Strike off but one-fourth from the duty on dressed or tanned leather, and you at once enable the shoe and boot-maker better able to compete with the foreign labor whilst the tanner will still enjoy a heavy protection. Reduce the duty on all other raw materials used in manufactures to a revenue duty, (twenty-five per cent.) and you relieve all other branches of manufactures.

"As evidence of the effect which the reduction of the duties on the raw material would have on the profits of the manufacturer, we will again refer to the statements annexed to the report of the majority. The average price of wool in this country appears to be about 40 cents a pound. The average in Europe is about twenty-five cents. A 20 per cent. duty and freight would add about 6 cents,—say it would be imported here at 31 cents, and sold to the manufacturer here at that price; he, thereby, saving 9 cents per pound. The amount of wool produced in England *alone* (according to Mr. McCulloch) is, in value, about £3,000,000, or nearly \$15,000,000. The duty proposed by the bill is 23 per cent., and 4 cents per pound, to protect the wool-grower. In England the duty is only 1 cent per pound to protect the wool-grower there. The cost of pig-iron in New York is \$30 per ton. The foreign cost of the best Scotch pig-iron is about \$17 50. The duty proposed by the act is \$8 per ton; or nearly one-half of the first cost of the best Scotch pig-iron. By the proposed bill, dressed or tanned skins and hides are to be subjected to a duty varying from \$1 25 to \$4 per dozen; and sole and band leather to 8 cents per pound. *Undressed* hides, however, (as they are the raw materials of the tanner,) are admitted free of duty, and are imported to the amount, in value, of \$2,750,000. If then, the manufacturers of wool, iron, and leather, are really, or would be, under a protec-

tion of only 25 per cent. in the distressed condition in which they are represented to be, we may give them essential relief by reducing the duty on the raw material—by subjecting it to a moderate duty only, instead of a duty of *exclusion*, as in the three cases we have named."

In addition to all this, it is well understood that an unsound, inflated paper-money system, which has abounded in this country, has operated very unfavorably on the manufacturers. This inflated paper system has, or rather had, raised the prices of all our merchandise and property far above their intrinsic value. The effect of this on the subject we are investigating was this: The English manufacturer could ship his goods to this country, sell them at auction on a little time, or through the agency of some house in this country, "at the high but artificial prices" of our paper-money system; and then vest the proceeds in cotton or tobacco, whose prices were not regulated here by paper-money, but by the markets abroad, where the currency was sound; and, by means of this purchase of produce, realize the full value of his goods, even after paying the duties in this country. The artificially *high prices* here were equal to the duty paid; and the investment in cotton, rice, or tobacco, at prices regulated by the sounder currencies abroad, enabled them to import and sell their merchandise, greatly to the annoyance of our own manufacturers. The United States is now rapidly returning to a sound currency, which, of itself, will greatly benefit the manufacturer. Aided by this restoration of our currency, and the duties contemplated by the compromise act, the manufacturer can not fail, in my opinion, to realize profits at least equal to those of the agricultural portion of our population. The 20 per cent. ad valorem, and a full equivalent for home valuation and cash duties, I have stated at the sum of 25 percent. In effect, it will operate much more than that, in favor of the manufacturers. It will drive *adventurers* out of the importing market, fictitious capital will disappear, and none but responsible and discreet merchants will import foreign merchandise into the country. Our markets, no longer glutted with imprudent importations, nor disturbed by forced sales, will acquire a steadiness and uniformity highly beneficial to the manufacturer.

Mr. Chairman, having stated the rate of duties agreed on

in the compromise act; and having shown, I think, clearly, that they are sufficient to sustain our most important manufactures, if not all of them, I now demand to know on what principle of justice or propriety the duties should be carried higher than 25 per cent.? The statements of the manufacturers, published in the report of the committee, all put it on the ground of protecting American against the pauper labor of Europe. Sir, this is a specious pretence. It is taken up and repeated by the public press, until it has evidently made some impression on the public mind. Well, what is the force of the argument? It is admitted that labor is cheaper in most countries of Europe than in this; and it is to supply this very defect that the Government has given the incidental advantage of 25 per cent. in the collection of her revenue. I contend that this, with the advantage of cheaper living, more abundant water-power, our inexhaustible supplies of fuel, the lightness of our taxation on property, and the general advantages of our free institutions, fully make up for this inequality of labor. But suppose they do not; what right have the manufacturers to ask the Government to impose a tax on all the other people of the United States, in order to raise a sum of money equal to this alleged difference in the price of labor—to be paid, not into the treasury, but into the pockets of the manufacturers! What right have they “to send round the hat” to the farmer, the grazier, the planter, the carpenter, the blacksmith, and the other mechanics of the country, to collect from each his five, ten, fifty, or one hundred dollars, to be paid over to the iron-master, to the wool or the cotton manufacturer, to the workers in glass or in leather, to equalize the prices of labor?—who, in turn, is to go round for them? Protection to all would but lead to prohibition; prohibition would lead to the destruction of all revenue from imports; and then comes direct taxation on all property—real, personal, and mixed. But can the other interests of the country sustain this sort of contribution, to be levied annually off them, for the benefit of the manufacturing interests? The planter can find but a poor market for his cotton, rice, or tobacco. The grazier finds his stock accumulating on his hands, until their very support threatens him with ruin. The grain-grower is compelled to sell at sac-

rificing prices, or to leave his wheat, and corn, and rye, and oats, to rot on his farm. Yet, in the midst of this universal gloom and depression, they are called upon to contribute more than one-fourth of their hard earnings to a single favored class of their countrymen !

Mr. Chairman, I do boldly maintain, that, with the protection of twenty-five per cent., and the other incidental advantages growing out of the cash system of duties, and the return to a sound currency in this country, the manufacturers can make a larger—much larger—profit on their capital than those relying on agriculture and the ordinary mechanic arts can possibly do.

Let us examine a little the enormous duties proposed by this bill, remembering always that they are so much taxes imposed on one portion of the people for the benefit of another who choose to engage in a business which, they say, a premium, or bounty, or protection of one-fourth will not sustain.

I begin with iron, which all who cultivate the earth must have—the plough, the axe, the hoe, the saw, the wedge, the nail, &c., &c.

The bill proposes the following duties:

On iron castings, vessels, &c.	1½ cts. per lb.
blacksmith hammers, &c.	2 do.
sheet or hoop	2½ do.
nails, wrought	4 do.
cut	3 do.
bar, rolled	125 per cent.
hammered	85 do.

A knowledge of the prices, at our chief cities, of the four or five first named articles, will show the enormous per centage which they pay. Wrought nails, for instance, sold, in January last, (1842,) in New York, at about ten cents; here they are put down at four cents duty; cut nails, at the same time and place, sold for five and five and a half cents per pound; here they are taxed three cents—more than one-half of the price of the article. Every farmer may thus be enabled to see how *he* is taxed in *that* article, which he can not dispense with.

Let us glance a little, also, at woollens:

“3d SECTION. On woollen yarn, four cents per pound, and thirty per centum. On wool unmanufactured, the value whereof, at the place of export,

tation, shall exceed eight cents, four cents per pound, and twenty-six per cent ad valorem. On ready made clothing; all milled and fulled cloth, known by the name of plain kerseys, or Kendall cottons, of which wool shall be the only material; merino shawls made of wool, and on all other manufactures of wool, or of which wool is a component part, subject, by any former act, to a duty of fifty per cent.—a duty of forty per cent.; and on flannels, buckings, and baizes, fourteen cents per square yard."

Why this doubling of duties—so much by the pound, and also so much on the value? Blankets, cassimeres, cloths—which multitudes of laboring men, without families to make what is called homespun, must have—are to be taxed forty per cent.; ready-made clothes, forty. This is an enormous protection—too much, by fifteen or twenty per cent.

How does the case stand with regard to cotton goods?

"**SECTION 4.** All manufactures of cotton, or of which cotton is a component part, thirty per centum ad valorem; provided,

"1st. That all plain white cottons, not exceeding in value twenty cents, shall be valued at twenty cents the square yard, &c.

"2d. And if dyed, colored, stained, printed, or stamped, not exceeding in value twenty-five cents, shall be valued at twenty-five cents.

Without giving the balance of this section, I pause, that you may see and understand the duty on plain and printed cottons. In New York, a yard of plain cotton cloth I suppose to cost five cents; yet it must be considered as costing twenty cents; or, if costing ten cents, the law says it must be considered as having cost twenty cents, and pay a duty of thirty per cent., not on the *actual* cost, but on the *presumed* cost. So of all the various-priced calicoes—whether costing ten, or fifteen, or twenty cents—they must be *considered, in law*, as having cost twenty-five cents, and pay a duty at that rate—being a duty of one hundred, two hundred, or, in some cases, of three hundred per cent., or more. Why this enormous duty, but for the entire exclusion of all cotton goods whatsoever? Under former duties, all such have been excluded, except about six millions' worth; and, under this rate of duty, even that will be swept overboard, and the whole home market be entirely surrendered to our own manufacturers. Where, then, is your revenue? Not a dollar in the treasury from this formerly mighty source of revenue. Not a dollar! And yet a duty, ranging from one hundred to three hundred per cent., has been

paid by consumers. Paid to whom? Why, to the manufacturers.

What is the proposed duty "on brown sugar, and sirup of sugar-cane in casks?" Two cents per pound. On the plantations of Louisiana, it only costs from four to six cents. In the Havana much less. How much brown sugar is used in a State? How much in a county? How much in any given town? How much in each family? Sir, an estimate might be made which would startle this country as to the amount annually paid by the people for the peculiar protection of a few hundred sugar plantations in Louisiana. Look, now, a little into the proposed duty on leather manufactures:

On shoes for men	30	cts. per pair.
On shoes or slippers for women, of silk	25	do.
On shoes or slippers for women, of other material	20	do.
On men's boots and bootees	\$1 25	do.
On women's boots and bootees	50	do.
On calf skins	4 00	per dozen.
On morocco	3 00	do.
On kid skins	2 00	do.
On sole and bend leather	8	cts. per lb.

These rates may not seem so high to those who refer to the prices of such things after they are carried to the interior of the country for sale; but to those who know anything of the cheapness of the first cost when imported, they cannot fail to appear enormous. The article of salt is to be taxed eight cents on the bushel. This I take from the prices in the large cities, (to which it can be brought as ballast to our vessels,) to be a duty equal to 100 per cent. on the very last article which should be taxed one cent. The majority have reported, on the notion that coffee and tea are necessities, and not luxuries, and should therefore be exempted from taxation. I shall seek an opportunity to procure the same exemption for salt.

I know how this argument against the injustice and oppressiveness of such high rate of duties has been usually met. The manufacturers tell us that high duties do not increase the price of articles to the consumer. The majority of the Committee on Manufactures have given a guarded and cautious

approval to this strange and inconsistent doctrine. Did the committee believe that the sanction of their names could give even a decent plausiblity to a position which the very presence of the manufacturers sufficiently refuted? High duties not raise the price to the consumer or purchaser! Why, then, have all these manufacturers abandoned their work-shops? Why have they crowded into this city? Why have they swarmed about this Capitol like the locusts of Egypt? Why all this, if they expeet no advance upon their manufaetures by the high duties which they are imploring Congress to impose? Can we believe that they are spending all this time and money on some patriotic project; which, when crowned with success, will but raise up (as they pretend) a more formidable competition at home than they now encounter from abroad? Sir, I know not which most to despise—the impudence which could fabricate, or the credulity which could be deceived by such an artifice.

There is another argument resting on a foundation no more solid than the preceding one. It is this: that high and distinctive protection should be given, at least to those articles which are essential to our national independence.

Sir, I deny that there are any such articles. Iron for the manufacture of arms, and coarse woollen cloths and blankets for our armies, are usually mentioned as articles of this description. But, sir, who ever heard that war with any one nation would put a stop to the importation of such things from the other nations who produce them? In a war with England, for illustration: would not the iron of Sweden and Russia still find its way in increased quantities to this country?—both in eager competition for the market from which England had so recently retired. Nay, more: if all the nations of Europe were united in the war, or so far leagued against us as to withhold foreign iron, what becomes of the iron-establishments of the West?—of Western Pennsylvania, Western Virginia, of East and Middle Tennessee, of Missouri, and Kentucky? These are all situated so far in the interior as to be safe, in a good degree, against importations; and will go on to prosperity under a 20 per centum protection, or, indeed, no protection at all. But the idea of a war at the same time against all, or,

indeed, more than one or two foreign countries, is too improbable to be admitted into this argument. Iron is not, and never can be, considered as contraband; and, therefore, is not liable to be seized and captured when found on board a neutral vessel transporting it to this country. Hence there can be no pretence for considering a high duty on *that* article to be called for, on any pretence of its being essential to our national independence.

The same thing may be said of coarse woollens. France and Germany would be prompt to supply them in time of war with Great Britain. The whole argument is addressed to the ever-sensitive patriotism of our countrymen; but implies a poor compliment to their sagacity or commercial discernment.

This reference to foreign countries, particularly to Great Britain, reminds me of an argument which, I believe, has done more to make converts to the high-tariff system than all others beside—I mean that argument which points to the power and glory of England as the fruits of a similar system. Ah, sir, there is the great fallacy of the argument. It has deceived thousands. It points to the power and glory of England—not to her shame. It points to her splendid palaces, to her costly temples, to her navies and armies, and to her dominion over distant and populous empires; but never, never does it unveil to our view the awful mass of individual poverty, and suffering, and woe, which that system has inflicted. I say nothing of unhappy, oppressed, and ruined Ireland! Nothing of her one hundred millions of indigent laborers in India! No, I allude to England herself—to her naked, starving, suffering people—made so by her unequal, unjust, and oppressive taxation—taxation which pampered her grandeur, but which ruined her people—taxation, which her present minister, backed by more than one hundred of a majority in Parliament, at this very moment is repealing. I cannot but refer, on this point, to an eloquent prophecy of one of my former colleagues, [Mr. BELL,] nearly ten years ago. “The day will come, and must come, when what is now considered the glorious fabric of British Government and British policy will be held a failure in reference to the true end of all governments. The day will come when

the English system will be regarded as the most stupendous and ingeniously devised system of fraud and oppression ever invented by the craft of man—a system of fraud and oppression distinguished from all others in the annals of the world, because carried on under the guise of freedom."

Sir, this eloquent prophecy is now fulfilled. The day *has* come when the British policy is acknowledged to be a failure by her proudest statesmen. The wretchedness and ruin it has inflicted on her starving millions, is nowhere better described than by one of our most gifted American poets:\*

" Thy masses in their hovels pine ;  
 They curse thee while they toil.  
 Thy nobles, of illustrious line,  
 Like vampyres, suck thy soil.  
 And now, proud mistress of the sea,  
 The meanest wretch gives food to thee.  
  
 " A Queen upon a throne of gold,  
 A Parliament of drones,  
 A nation's voice that's bought and sold,  
 While every cottage groans.  
 An army o'er the wide world spread,  
 To gather garments from the dead."

Mr. Chairman, I go no further into the arguments by which this wretched system, either here or in England, has been attempted to be supported. I mean to say nothing of the proportionate loss or gain by the different sections of the Union; and least of all do I mean to warn gentlemen against reviving those fearful questions which once shook that Union to its centre. All that I propose further to show in this argument is, that the rates fixed by the compromise, which I estimate at 25 per cent., will yield a sufficient revenue to meet the wants of the Government—not her wants when running a career of wild extravagance, but when prudently and economically administered. To show the amount which will probably be realized, I estimate the imports for several years to come to average \$100,000,000, of what I presume to be dutiable articles, estimated by foreign value; by our home valuation, \$125,000,000. Twenty per centum on that amount would yield a revenue of

\*Dow.

\$25,000,000 gross. From this deduct \$1,000,000, the cost of collection, to which sum I think it entirely practicable to reduce them by a few prudent regulations—leaving the amount of \$24,000,000, subject only to the drawbacks allowed by law. This system of drawbacks, by which foreign goods, once brought in and paying duties are allowed to be reshipped, or exported, and the duties returned, I have no doubt is greatly defective, and ought to be revised. If that were done, I have no doubt the item for drawbacks would be greatly reduced. But at present I put down the sum of two and a half millions for drawbacks; which, being deducted, leaves \$21,500,000—the net revenue from customs for the first year after the compromise act shall go into operation. This twenty-one millions and a half do not include any duties on tea and coffee. I estimate the imports to be one hundred millions, exclusive of them; and repose with entire confidence on the estimate. The question, then, arises, whether this revenue of twenty-one millions and a half will be sufficient to defray the necessary and proper expenses of the Government. I do not hesitate here to affirm that, with my knowledge of public affairs, the ordinary and current expenses of this Government can and ought to be brought within that compass. Nay, I believe they might well be reduced to twenty millions, and still be conducted on a scale creditable and worthy of a great and gallant nation. The two last years of Mr. Van Buren's administration were rapidly approaching that amount. The Committee on Manufactures were careful to remind us that the average ordinary expenditures of the four years (Mr. Van Buren's) were nearly twenty-eight millions; when they knew that the large expenditures of 1837 and 1838 could find no parallel necessity in the present or subsequent years. There is no cause for similar expenditures. The Florida war, the purchase and payment for Indian lands, &c., have now ceased, and had begun to do so in 1839, and still more in 1840. Hence, fairness required them only to have taken the average of Mr. Van Buren's two last years; which, being done, would have shown about twenty-two and a half, instead of twenty-eight millions. But such a course would have diminished the necessity for imposing such duties as would give high protection; and, therefore, it is not

strange that the majority of the committee preferred the former mode of computation.

But if twenty-one and a half millions will not be sufficient to administer the Government on that scale which those who now control her destinies desire, how shall more than that amount be raised? You may increase it, 1st. By a tax on tea and coffee between three and four millions; or, 2d. You may increase it about the same amount by the restoration of the land-fund to the treasury. Here, then, are the alternatives distinctly presented to the choice of the majority, who now control the action of this Government—either to bring down the Government from the twenty-six millions, or more, to which you have carried it since you came into power, to twenty-one and a half millions; or impose your tax on tea and coffee; or, finally, abandon the distribution of the proceeds of the public lands among the States. Sir, these alternatives are presented to both the great political parties of this country. The Democratic party, with but few exceptions, will not hesitate which of them to choose. They stand pledged, by their principles, to the most rigid economy; they have vowed, in the present emergency, to push forward the most vigorous reductions; and, more than all, they stand pledged to this economy by all the consecrated provisions of the compromise. Yes, sir, they stand here this day under the solemn conviction that twenty or twenty-one millions will be enough for the ordinary expenses of the Government for years to come. But they stand here determined that, if their adversaries will have more than this, it shall not be raised off of the necessities of life—the essentials of human subsistence. Tea and coffee are now, articles of that description, whatever they might once have been. So is the article of salt: it is indispensable to man, and to all the animals which he makes tributary to his convenience or his necessities. But all these essentials—tea, coffee, and salt—we know cannot be exempted from taxation, unless our adversaries restore the land fund,—that fund which they ought not to give away, at a time when they have to *borrow* from anybody, and to *tax* everybody, to make up the deficiency; that fund which is too small to do any sensible good in liquidating the enormous debts of the States. Yes, sir; I repeat the great

Democratic creed in the present posture of our public affairs. Give back the land money, thereby enabling us to exempt from taxation the three great necessities of life; reduce your expenditures to the standard of strict and necessary economy; and then you can leave unviolated that glorious treaty of amity and peace which was so solemnly ratified in 1833.

Mr. Chairman, I assume another position, for which I bespeak the serious attention of this committee. Your commerce is now in the most depressed, not to say paralyzed, condition. It can bear no increased burdens. What it wants is, to be rendered more free and unencumbered. The condition of the currency in most other countries, and the general embarrassment of all, would seem to require that very weight should be removed, and the freest interchange of commodities should be encouraged. It is under such convictions as these that the wisest statesmen of England are relaxing their restrictions, and removing their prohibitions. The general range of English duties is now being reduced, on an average, nearly one hundred per cent. This is a great concession to free and unrestricted commerce between her and the other nations of the earth—a concession forced upon her by the accumulated experience of ages. Shall the United States, at such a moment as this, recede from the great principles of free trade, which she proclaimed to the States and to the world in 1833? She then proclaimed that she would impose no other fetters on her commerce with the world than such as were absolutely necessary for the support of her Government when economically administered. This bright and beneficent example has been held up to the other nations for imitation. It has produced, and is producing, wonderful effects, in England especially—that country with which we have the greatest and most profitable intercourse. At such a moment as this, I repeat, shall we put out the light of our own glorious example? No, I trust we shall not. If we shall but steadily adhere to it, we shall soon reap a harvest of national and individual prosperity, which has never been surpassed:—not that hollow and deceptive prosperity by which we were lately so much elated; but prosperity as lasting and solid as those great principles of equality and justice by which it will be acquired—prosperity which, in two

or three years, at most, will yield you an income, not of twenty, but of thirty millions at least. Yes, sir; it is only of the first year of the compromise act that any man need doubt the sufficiency of your revenue. The second, third, and future years, under a reanimated and reinvigorated commerce, will give you enough, and more than enough, for every reasonable demand on a plain, economical, and republican Government like ours. Beyond that, let no one here desire to go. Let no American statesman ever consent to impose heavy and unjust taxation on the people, in order that this Government may rival the luxury and grandeur of the Old World.

## S P E E C H ,

*Against receiving, referring, or reporting Abolition Petitions;  
delivered in the House of Representatives, January 10, 1844.*

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The unfinished business of the morning hour being the Report of the Select Committee on the Rules, and Mr. DROMGOOLE's motion to recommit the Report to the Select Committee.

Which motion Mr. BLACK, of Georgia, had moved to amend, by adding Instructions to the Committee to report the Rule commonly known as the 21st: (i. e. which excludes Abolition Petitions.)

Mr. A. V. BROWN, who was entitled to the floor, resumed his remarks of a preceding day, and continued them during the remainder of his hour.

The Committee on Rules had reported to this House, (he said,) and in that report they had furnished no rule whatsoever for its government in relation to abolition petitions. He had already, in his remarks on Saturday last, offered every complaint upon this subject which he intended to offer. But, having reported no rules at all, what would be the condition of this House with reference to this matter? There were three courses, one of which must be adopted. The first was, according to one motion now pending, that the 21st rule should be reported by the committee; that was, in other words, that these abolition petitions should not be received. Another course, provided for by the instructions which had been offered, was, that they should be received, but laid on the table without reference, without report, without debate, or any other action whatever. The third proposition was, according to the report of the committee, that these petitions should not only be received, but be referred, reported, and acted on, like the ordinary business of legislation. Now, some one of these three

modes must be embraced by this House, and be decided on by the question now pending before the House.

Mr. B. did not hesitate to be in favor of the 21st rule. He had often voted for that rule; he was prepared to vote for it again; and not only was he prepared to vote for it, but he was ready here in his place to stand up in vindication of that rule against the arguments by which it had been assailed. What had they heard against the 21st rule? Every body knew what they had heard from the gentleman from Massachusetts [Mr. ADAMS] and the gentleman from Ohio, [Mr. GIDDINGS.] He asked not what they had heard from them, for they knew it well. Nor did he ask what they had heard against that rule from the raving fanatics of the day. He would rather enquire what they had heard from gentlemen in this House during this session. What had they heard from gentlemen here in their places, and especially from the gentleman from New York, [Mr. BEARDSLEY?] Why, they had been told that the 21st rule was a violation of the great constitutional right of petition. The gentleman from New York had told them so; the gentleman from North Carolina, [Mr. CLINGMAN,] coming from a region greatly interested in this subject, had told them so. Mr. B. denied it. The gentleman said that it not only violated the great constitutional right of petition, but had driven the petitioners out of this Hall; that it had driven them from their door with scorn and contempt. Mr. B. denied it, and defied gentlemen—(the word “defy” seemed well understood on the other side of the House, but its use, a few days since, had not seemed so well understood on this side of the House)—he defied these gentlemen, one and all, to the proof. Where was the proof upon the subject? It was on their journal, and lying on their tables; and he defied gentlemen to the proof upon this subject. They might take what petition they pleased; they might take the one said to have been signed by fifty thousand petitioners, presented some sessions since by the gentleman from Massachusetts, [Mr. ADAMS,] or that other one which had, at the last session, been brought in on a great reel and set upon the table of the gentleman from Massachusetts for ornament to it; or they might take the one presented by him for the dissolution of the Union, or that one presented at this

session of Congress from citizens of New York, asking to be forever separated from the institution of slavery. They might take any one or all of these petitions, and he would appeal to the record to settle the question, whether in any of these cases we had violated the great constitutional right of petition; whether we had turned the petitioners out of this Hall; whether we had driven them with scorn and contempt from our doors.

What had been the proceedings of these and all similar cases? What had been the practice under the 21st rule? The petitioners in any and in all those cases had "peaceably assembled." Had the 21st rule prevented that? When they had assembled, they had petitioned this House. Did the 21st rule prevent that? They had, as the next step, sent their petitions to their chosen and selected agent. Did we prevent that by the 21st rule? We did not. What was next? That agent, in every one of these cases, had brought their petitions here within these walls. Did the 21st rule prevent that? No. What next? The gentleman from Massachusetts rose in his place; all eyes were fixed upon him, and all ears were opened to his voice. What did he do? He presented these petitions: he stated distinctly to the House what they contained, where the petitioners resided, what were the grievances complained of, how they reasoned upon the subject, and, finally, made known to this House what was the redress they prayed for. That was the precise process. The record showed the fact. And now the question was, whether we had abridged or in any-wise violated the great right of petition in this course of proceeding? The petitioners had been heard. By themselves? No; for they had not come here to be heard; they had been heard by their own selected agent, who came within these walls, presented their petitions, and made known their prayers. Would it, then, be pretended that we had violated their rights, or treated them with scorn when we had heard their own agent speaking for them, and stating what grievances they prayed to have redressed?

The question now which he wished to put to the gentleman from New York and others who seemed disposed to object to this 21st rule was, whether, in fact, under that rule, we had

ever violated the great right of petition? There could be no difficulty in understanding the subject. He could bring illustrations of it from every domestic circle, and from the scenes of every-day life. A parent was bound to hear the complaint of her offspring; but, pausing and hearing them, she might promptly repel them. Although the child might say that the parent was precipitate, or even unkind, yet it could never say that the parent had refused to hear its complaints. Now, here was the great principle of petition. Mr. B. admitted the right in its broadest and fullest extent; and he admitted further the duty of this House to hear these petitioners. After these petitioners were heard, (as they did hear them under this 21st rule,) the right of the people was perfect. The duty of the House then began, and that duty was to dispose of the petitions promptly or slowly, as they deemed proper.

It was a great issue, not only elsewhere but here, whether the argument was true; so often used by the gentleman from Ohio and the gentleman from Massachusetts, and now sustained by the gentleman from New York and the gentleman from North Carolina, who had come forward and endorsed the arguments used in former times upon this subject, whether by this 21st rule the great constitutional right of petition was violated; as they affirmed it was. Mr. B. denied that this right was violated, and he appealed to the record, relying upon the known practice of the House, (for what he had told them with regard to the practice upon these petitions was known to be true by every member of the House.)

But by what sort of an argument was it that the gentleman from New York maintained that the 21st rule ought to be abandoned? The gentleman told them that this was the very best way in the world to put down abolition. His great object was to put down abolition; and the best way to do so, he told them, was to receive, to refer, and to report upon these petitions. The gentleman might as well tell him that the best way to save a city was to surrender its fortifications; or that the best way to repel an invasion was to give up all the mountain passes and strongholds where the enemy might be most readily and effectually met and overcome. Put down the spirit of abolitionists, defeat their object by doing what? By

granting them four out of five of the very things they desired. What did they ask for? To have their petitions received. Well, said the gentleman from New York, "Oh, yes, let us receive them; that is the way to put them down." What was the next thing they asked for? To have their petitions referred to the committees of the House. The gentlemen from New York and the gentleman from North Carolina also said, "Oh, yes, let us put down these abolitionists by sending their petitions to a committee to be examined and reported upon." They asked more—that they should debate these petitions. And gentlemen professing to be opposed to abolition (and Mr. B. doubted not sincerely professing) still tried to persuade the House that the best way was to yield every inch of ground, and refuse nothing but the solitary principle of relief for which they finally prayed. Now, it was impossible for Mr. B., as a Southern man, or as a statesman who had watched the progress of this abolition question, to believe that this could be safely done.

[Mr. BEARDSLEY. (Mr. Brown yielding for explanation) inquired if the gentleman said that he (Mr. BEARDSLEY) advised debate upon the subject. Surely he had never taken this position. His course was well known: it was in favor of taking the final vote upon the whole matter; and gentlemen well knew what that would be.]

Mr. BROWN resumed. But did not the gentleman perceive that if they referred these petitions they must report upon them; and if they reported, they must debate the subject? If they began, on what principle would they avoid carrying out the regular process, involving reference, report, and debate? But why would gentlemen agree to refer these petitions at all? They all said they were as much opposed to abolition as any one, and yet they proposed to refer the petitions to a committee which should collect facts, examine laws, and consider the subject, and see if some plan could not be devised for carrying out the views of the petitioners. If this was not the object, they could have no object at all. Why, then, would they refer, why report upon, why debate these petitions, if they did not mean finally to grant their prayer?

[Mr. CLINGMAN (Mr. B. yielding for explanation) said the gentleman had misunderstood him (Mr. C.) if he had understood him as being in favor of debating these petitions. He was averse to it; he was willing to see

this rule debated, and to see the report of a committee debated. But he thought it beneath the dignity of the House to debate any petition. They had enough to do to debate bills, resolutions and reports from committees. After reference, if the committee reported for or against the prayer if any gentleman chose he might then with propriety discuss the matter.]

Mr. Brown continued. He was glad the gentleman from North Carolina had had an opportunity for explanation. But did not the gentleman see that the only way to get along with this subject with safety to the South, with safety to the gentleman's own State, with safety to the portions of North Carolina bordering on the rivers of that State where the heaviest slave population was to be found, was not to go beyond the great question of the right of petition, but there to stop? to take no jurisdiction, by reference, by report, or debate over the subject? There was comparatively safe ground; and from the explanation of the gentleman from North Carolina, Mr. B. indulged strongly the hope that when they came finally to act upon the subject, he [Mr. C.] would not be found going beyond that. Mr. B. admitted, notwithstanding their rule was so plain, and notwithstanding their practice under it had been so plain, that there might be extensive misrepresentations and misconstructions of the rule of the country. Now, he asked of the gentleman from New York and of the gentleman from North Carolina, why they did not stop at that point? Why they did not propose in the report of this committee to clear up, to elucidate this subject, and make it manifest in its true light to all the people of the country, and to remove all doubts and difficulties, by going on according to their views to perfect the great right of petition? What was requisite for that? Why, simply to declare that the petitions should be received; that would perfect the great right of petition in a manner safe to the North, and which would be safe to the South in a great degree, and it would have saved the Democracy of the North from the suspicion of their enemies of a disposition to form alliances with, or to propitiate at least, the fell spirit of abolitionism. Why did not the gentlemen pause at the point of reception, and go no farther, if their object was to clear up the misconception on the public mind?

It might seem strange to the gentleman to whom Mr. B. had

referred—to the gentleman from New York, to the gentleman from North Carolina, as well as others—that he had laid so much stress upon not referring, not reporting, and not debating these petitions. Why, it was evident, if these petitions were received and laid upon the Speaker's table, that there, under the rule, they would lie forever. No great harm or mischief perhaps would grow out of this practice. But the very moment they referred them to a committee, that moment they took jurisdiction over them, and jurisdiction in such away as to alarm the whole country. He was opposed to an action which might result in such consequences.

The argument had been used, that if they would receive, refer, and report upon these petitions, as in ordinary cases, this would allay the excitement which now exists on this subject. Mr. B. had one conclusive answer, one irresistible argument, in his humble judgment, against this proposition: They had already tried it. Many gentlemen were here discussing this question, as though the experiment had never been made, of receiving these petitions, and referring and reporting upon them. Why, the very speech the gentleman from New York had made, if not word for word, yet argument for argument, had led to the adoption of the celebrated Pinckney resolution. Under this they had been received, referred, and reported on; a dignified, manly, respectful report had been made, and the decision of this House had been had upon the question. Now, had that allayed excitement? Had that had the tendency to put down the spirit of abolition? So far from it, the gentleman from Massachusetts, at the next session, had come within this Hall with fifty thousand petitioners at his heels. So far from it, the very moment they had adopted the Pinckney resolution, and determined to receive, refer, and report upon these petitions as they did upon all others, the abolitionists all over the country said: "Now is the time to make your effort; send men to Congress able to be the speakers of that body—able to serve upon the committee, able to speak and vindicate the abolition question. The doors of Congress are wide open; they may not long remain so. Therefore, now is the time, and put all your machinery in motion to effect your object." And abolition had grown and flourished, and they were now

reaping a rich harvest from the seeds which had then been sown under the Pinckney resolution.

[Mr. ADAMS (Mr. B. yielding the floor) said he wished simply to ask the gentleman whether the report of Mr. Pinckney was in favor of receiving these petitions? That was what he had understood the gentleman to assert.

Mr. BROWN. Certainly it was not in favor of granting their prayer.

Mr. ADAMS said it was not in favor of receiving the petitions, and that fact had been the occasion of the multitude of petitions which had been presented to the next Legislature. The refusal of the House, under that very resolution, to receive these petitions, had been the reason for the multitude of them that had been offered since that time.]

Mr. BROWN continued. With regard to the Pinckney resolution, it had been a long time since Mr. B. had examined it, but it had always been pointed to as being in a degree liberal, and that very resolution the abolitionists themselves would now prefer, a thousand times prefer, to the 21st rule. His impression was that it did receive these petitions, but laid them on the table.

Mr. B. relied, then, on the clear, manifest experience of this House for demonstration that, if they received these petitions—if they referred and reported upon them—if they gave, in other words, a respectful response to these petitioners, he relied upon the practice of the House and the experience of the country that such results as gentlemen anticipated would not grow out of this course of proceeding. Why did gentlemen insist so strongly upon referring these petitions? Why would they refer them? Did they mean to grant their prayer? No. Why then did they profess that they were about to do so, by referring the petitions to a committee? Was it done in hypocrisy? He did not charge it, and he would not think it. Why, then would they refer them? Was it in order to manifest respect to the petitioners? If that were the reason, Mr. B. would not show it, for he did not feel it.

Mr. B. wished now to state some reasons why he was so much opposed to the reference of and the report upon these petitions. The first was, that if at every session of Congress their title to their property was to be brought in question upon this floor, it must of necessity diminish, if not destroy the value of that property. He wanted gentlemen to consider this: that

every year, session after session, if they had no rule upon this subject, their title to this description of property (which title they admitted, and which he believed everybody was prepared to admit, except abolitionists) would annually be brought into question in this Hall. Would not this finally destroy its value? Suppose a member of this House to have a good and indefeasible title to a tract of land, but yet to be sued for it every year, and that he was able to effect recovery in every litigation: would it not be very natural for him finally to be compelled to say, that although he knew there was no outstanding title, yet, if he was to be sued every year for it, it would be better to give it up to the man who asked for it, although he knew that he had no title to it? If they had the practice of referring these petitions at every session of Congress, the question would be, "How does that committee stand?" How many of its members are favorable to abolition, and how many opposed to it? How many will stay here all the time? Will not some go home, and, by an accidental meeting of the committee, may there not be found a majority favorable to the purpose of abolition?" The veriest accident in the world might extract from the committee a report favorable to the petitioners. Alarm and excitement under such a state of things would pervade the whole South; our whole Southern population would be tossed to and fro, like the waves of the ocean, at every vibration and change of parties upon this floor. That was one reason why Mr. B. would not begin to take jurisdiction of this question, by reference to a committee.

But there was another reason which actuated Mr. B. in his course upon this subject. Gentlemen surely did not know what was going on in the South. In the spirit of liberality, and just humanity too, they had taught many of their slaves to read; they had relaxed the rigors of their fetters; and with their children they had learned to read, and some to write. Did they not see in a moment the danger, under this state of things, of the debates here annually—not now and then, once in four or five years, but annually—being thrown out upon our slave population? The abolitionists had already sent missives to that region of country. They had first addressed the owners of slaves, and had afterwards sent their addresses to the

slaves themselves. They were there now, and were read by their slaves by the flickering lamp at midnight; and so their reports and debates, if they were to be made here annually, would be read by them in like manner.

But in these addresses, and particularly in the addresses of the abolitionists themselves, what had their slaves been told? They had told them to shed no blood, but that they might steal their masters' property of any description necessary to expedite their flight to the free States; and they were assured that their friends were standing with open arms ready to receive them, and conduct them to Canada. That was what they were reading now, and no man could tell what the result of that reading would be, much less could they tell what dreadful results might ensue when they read the celebrated Pittsburg letter. In this letter a new idea was brought forward and presented to their view. The opinion was advanced in it that emancipation would come; that the abolition of slavery would be effected in some way or other—whether peaceably, or by blood, it was not known; but, in whatever way it should come, the writer of that letter was in favor of it. When that should be read by their slaves, no mortal man could tell what the consequences would be. Where had the idea of blood been taken from? (asked Mr. B.) The gentleman from Massachusetts had snatched it from the incendiary fires and massacres of St. Domingo. There they shed the blood of the sleeping infant, and piercing its yet warm and writhing body with a stake, marched under it as their banner with the swords in one hand, and the fagot in the other. Who could tell, when these things were read at midnight by the very slaves whom they had favored and taught to read for another and better purpose, what would be the result? No man could predict. Hence it was that they of the South stood here asking their real friends of the North never—if they could not go with them for the exclusion of these petitions; if they thought that was too strong a proposition, and insisted upon their reception—never to go beyond the reception, or make these petitions the subject of reference, report, and debate in this Hall. Our safety (said Mr. B.) depends upon it; the safety of the bright and glorious Union depends upon it. And he wished to say to gentlemen

of the North, "You understand what is the intimation of your people upon the subject; you know better how this 21st rule has been mystified, if not misrepresented. If your safety depends upon the relaxation or explanation of the rule, why, give it; but when you have done that, be satisfied. When you have secured the great constitutional principle of petition, there stop. There your principles stop. Beyond that you are not bound to go; beyond that you ought not to go; beyond that you cannot go, in my humble judgment, consistently with the great compromise contained in the Constitution."

Now, this was the position of Southern gentlemen here. They were of course prepared to vote the strongest measure; they were prepared to exclude these petitions. They did vote to exclude them. The question was, whether this House had any constitutional jurisdiction over the subject. Everybody knew they had not. But they of the South—many of them—thought the reception of these petitions was taking the first step in the assumption of jurisdiction. I (said Mr. B.) go for the strongest rule; but if that is too strong either for your judgment, or for that of the people you represent, then give us another rule which will not violate the opinion of your constituents, but which will ensure comparative safety and repose to the South. Southern gentlemen could not so much object to that. If they could not get the strongest and best rule, then they had a right to the next strongest and next best rule. That rule might admit of the clear reception of petitions, but not of their reference to a committee, or of report, or debate upon them, as would occur if there were to be no rule upon the subject; not occasionally, once in five or six years, but every year. Session after session they would come up to be debated here, which, in his humble judgment, could not be done consistently with the great principles of the Constitution; and let him again ask gentlemen, who did not mean finally ever to give the redress asked for by the petitioners, why they should be debated, or reported on, or referred? To do so would be but an idle mockery, or a hypocritical pretension.

Mr. B. said, so far he had spoken to those who were sensitive on the right of petition. He had attempted to show that this right was not violated in the slightest degree by the 21st

rule. He had often sustained this opinion by his votes, and he meant now and forever so to sustain it. He hoped that no man, either in the South or in the North, who entertained the same opinion, would falter or hesitate one moment on the subject. But he could not be insensible to what was passing around him. He saw, or feared he saw, in the already recorded votes of this House, in the report now under discussion, in the speeches of the gentleman from New York, [Mr. BEARDSLEY,] and in that of the gentleman from North Carolina [Mr. CLINGMAN,] and, more than all, in the exulting shout of the gentleman from Massachusetts, [Mr. ADAMS,] that this 21st rule was doomed to fall. Hence it was, that he had made an appeal, not to him of Massachusetts, not to him of Ohio; but to all those who professed only to be desirous of preserving the right of petition, to go that far, but no farther. All beyond that, was concession to the fell spirit of Abolition, and no man could be held guiltless who pandered to its wickedness and its folly. The South will hold no man guiltless who shall go one inch beyond the right of petition. He must answer for every fire that may be kindled, and for every drop of blood that may be shed. Yes, sir, I will say to the gentleman from New York, and from North Carolina, if this House shall go one inch beyond that, they may have to stand answerable for the shattered and broken fragments of the Union itself. Going beyond that, the highest hopes and the blackest designs of abolition may find at last their accomplishment—no, (said Mr. B.,) I am wrong in that. These designs, whatever else may happen, can never be accomplished in any of the ways now proposed. All the efforts now making by them only rivet the chain of slavery more securely, or make their weight more galling and oppressive. In God's own time, and by means of his selection, these chains may fall, and the bondsman go free. Left to these means unprecipitated by the officiousness of fanaticism, the enlightened humanity of the age, the diffusion of religious knowledge, and even the better estimated self-interest of the master, will soften the rigors of bondage, and render the slave, as he now is in many cases, but little inferior, in the great elements of happiness, to the master he serves. Give slavery but scope and compass—let it dilate itself over ample

space, and it loses much of that oppression which even a morbid humanity could deplore. In much of Tennessee, of Kentucky, of North Carolina, and other States of the South, where slavery is not too much *condensed*, I hesitate not to say that, in point of care and anxiety—in point of abundance of food and of raiment—of healthful but humble habitation—the slave is but little distinguished from the master. They labor in the same fields, partake of the same food, repose during the same period, and often participate in the same amusements. All ancient barbarity of punishment has disappeared, and the criminal code of the master has kept pace with the amelioration of the criminal code of all civilized nations. This cheering picture, I admit, assumes a darker coloring as you approach the more densely populated regions of the South. But even there hundreds and thousands of our slaves, were they to visit, as some of them have done, the free States in the North, and scan with an eye of intelligence the condition of their colored brethren, would turn revolting from the spectacle, and cling with gratitude and joy to the protective care and enlightened humanity of their masters. Mr. B. would repeat his solemn convictions, that the means now used by abolitionists could never bring any thing to the colored man of the South but an increase of discontent with his present condition. That discontent may bring to him death and destruction. It may lead him to revolt against his master. Without arms, without ammunition, without discipline, without numbers compared with the whites, what could he do? He is hung up on the gibbet, or shot down by his pursuers in the fields which he once contentedly cultivated, or in the forest where so often he pursued his game, the more joyous companion of his master. If the injudicious and really inhuman projects of the abolitionists were to induce our slaves to runaway from the South, and seek the aid of their supposed friends in the North, what would be their condition? *Would* the abolitionists prove to be their friends then? No. They would be refused a settlement among them. They would be forced away to the cold and frozen regions of Canada, to perish or to starve; or be driven away like beasts among the Indian tribes of the West, to be enslaved by them, or butchered by the Comanche or other savage nations of the

forest. Sir, it is impossible to tell the precise manner of their expulsion and destruction; but expelled and destroyed they would be, whilst true religion and humanity would long weep over their unhappy destiny. Sir, they are comparatively happy now; let them alone. They are fed well, they are clothed well, they are housed well; they do not labor more or harder than the poor of our own color, whose necessities require that they should labor for their subsistence. Let them alone. They are ours by purchase. You of the North (some of you) first kidnapped them, and then brought and sold them to us. Were we to liberate them to-morrow, you would not receive them. You would treat them with a thousand-fold more barbarity than ever they were treated by us. Then let them alone; your benevolence, false and often hypocritical as it is, would but kill and destroy them. Then let them alone. God in his love, and Religion in her holiness, will do more and better for them than you ever can or will do. But I forget (said Mr. B.) that I speak to a bigotry that has no heart, and to a fanaticism that has no ears. I turn, therefore, from them to the men and patriots who belong to these Halls—the successors of those illustrious men who reared this temple, and consecrated it forever to Union and the Constitution. If thy people shall lift up their eyes to this temple, and pray thee for what it is lawful to grant them under that Constitution, hear thou and answer them. But if they ask thee for what will rend that Constitution, and sunder forever that bright and glorious Union, be thou as deaf and insensible as the marble pillars which surround you.

## S P E E C H ,

*On the Right of the Members elected by general ticket to their Seats ; delivered in the House of Representatives, February 9, 1844.*

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The Report of the Committee on Elections, relative to the right of certain Members to their seats in the House of Representatives, being under consideration :

Mr. A. V. Brown addressed the House, as follows—

Mr. SPEAKER : There is now lying on your table a bill which I had the honor to introduce at an early period of the session, proposing a repeal of that section of the apportionment act which is the exciting topic of this debate. Whilst the report of the committee maintains that section to be void and of no effect, that bill declares that it shall be stricken at once from your statute-book. The subjects are identical, the arguments on them nearly the same ; and, at the close of this debate, I shall move the bill on its passage, that both subjects (as nearly as possible,) may be disposed of at the same time. Having introduced that bill, and being also a member of the committee by which this report was made, I stand in such responsible connection with both, that I trust I shall be excused by the House for participating in this debate.

This, however, I would not think of doing, did I entertain the opinions which have just been expressed by the gentleman from Georgia, [Mr. STEPHENS.] If I were deeply and thoroughly convinced, as he says he is, that I was not duly and constitutionally elected to this House, I would neither speak in it, nor act in it. I would leave it at once, whatever the opinion of others might be. So I would do in every other similar case. Were I unlawfully appointed the Judge of a court, or if the

court had been unconstitutionally created, I would neither clothe myself with its ermine, nor sit on its woolsack.

The second section of the apportionment act provides, "that where a State is entitled to more than one Representative, the number to which each State shall be entitled, under this apportionment, shall be elected by districts composed of contiguous territory, equal in number to the number of Representatives to which said State shall be entitled—no one district electing more than one Representative." The introduction of that section into the apportionment bill was too singular to have escaped observation. The gentleman from Georgia, [Mr. STEPHENS,] had adverted to the fact, and was pleased to ascribe to it a Democratic origin. I think I shall be able to satisfy the gentleman that he has looked into the history of its introduction into that bill with a too careless eye. [Here Mr. STEPHENS (Mr. B. yielding the floor) inquired if the gentleman denied the fact he had stated, that this portion of the bill had been introduced by the gentleman from South Carolina, Mr. CAMPBELL.]

Mr. B. replied that he did not deny the correctness of that assertion; but he did not doubt but the gentleman understood the fact really to be as he had represented it.

[Mr. CAMPBELL (Mr. B. further yielding for explanation) observed that the gentleman no doubt had a correct recollection of the origin of the second section of this act. It had been in this way: A resolution had been introduced by him (Mr. C.) instructing the Committee of Elections, to inquire into the expediency of regulating the subject of Congressional elections in such a way, by law, as that they should be by uniform districts throughout the United States. Sometime afterwards the Committee of Elections, in conformity with these instructions, reported a clause, from which had originated this second section; which clause had been amended on his motion, and assumed the shape which it now occupied in the law. So, Mr. C. had originated the proposition in the first instance, and in the second instance, by his motion, it had assumed the form in which it now appeared as the second section of the act.]

Mr. BROWN replied, that he did not mean to say that the gentleman was not the real, as he certainly was the putative father of the district proposition of that session; but he must insist that the gentleman should content himself with the more humble relation of mere god-father to the thought of making

it a part and portion of the apportionment bill. That was the great matter about which he was complaining. The apportionment bill was one which was obliged to be passed in some form or other. Without it the Federal Government would run down and be at an end. The forcing of this section on such a bill as that he denied to have had a Democratic origin. He meant to demonstrate that, in the further progress of his remarks, to every man's satisfaction. The gentleman's own resolution contemplated no connection whatever with the apportionment bill—it expressly called for a separate and distinct bill by itself, to stand or fall by its own merits. Mr. Brown said he would now proceed on his observations.

More than fifty years of our political existence had rolled by, and no such legislation had ever been proposed. State after State had risen up and become members of this Confederacy, not one of which had ever failed cheerfully and promptly to furnish its proportion of our national representation. In peace and in war—in prosperity and in adversity—amidst the fiercest conflict of parties—all had done their duty; not one had failed or refused to regulate "the time, place, and manner" of holding elections, as required by the Constitution. What, then, could have induced the Congress of 1842, with no derelictions on the part of the States, with no memorials from the seventeen or eighteen millions of the People of this country, to wage this wanton and unprovoked war on the constitutional rights and the ancient usages of the States? It was the blind, infuriated spirit of party, vainly endeavoring to perpetuate a triumph which chance or fraud or folly had achieved. Those who were influenced by it had the sagacity to devise, and the heart to meditate, but not the hardihood to consummate the deed. They could declare that none should be admitted to membership here but those who had been elected by districts; but they dared not rouse the sleeping lion of public indignation, by laying off the districts themselves. To show you that I am not mistaken in the party character of this war, let me advert to the fact, that the idea of introducing this second section into the apportionment law was engendered in the Committee of Elections—a committee eminently partisan in its head, and, indeed, in its whole structure. That Com-

mittee had no charge of the apportionment bill ; it had no jurisdiction over it. The preparation of that bill had been confided to a special committee of thirteen, who had reported it with no such clause in it. It was, therefore, gross usurpation in that committee to attempt to supersede the special one, by reporting amendments to it; and nothing but the inveteracy of party would have sustained its arrogant pretensions. On the 26th of April, whilst the apportionment bill, as reported by the special committee, was under discussion in committee of the whole, Mr. Halsted, of New Jersey, as he said (for he made no report, and could have made none in Committee of the Whole) by order of the Committee of Elections, proposed the second section. The gentleman from South Carolina [Mr. CAMPBELL] offered an amendment to Mr. Halsted's, changing its phraseology, but not its meaning, which was accepted by Mr. Halsted, and adopted by him in lieu of his own. The whole Democratic party contended against the amendment at every stage of its progress ; not because they were opposed to the districting plan, but because they were unwilling to see it enforced on the States by the strong arm of Federal domination. They fought it on every inch of ground, and finally recorded a unanimous vote against it. [Here Mr. CAMPBELL reminded Mr. B. that he was certainly mistaken.] Mr. B. Unanimous, did I say ? No, I am wrong in that ; the gentleman from South Carolina, [Mr. C.] did not vote with us, nor fight with us. Nay, he fought against us. He went over to the enemy ; and they, delighted with the acquisition, instantly promoted him to the command, and he actually led on their proud imperious cohorts to the charge. I need not tell you the result. Turn to your journals of the 3d of May, and you will find that the Democratic party was overcome by a vote of 101 to 99. The gentleman's vote, and that of his colleague, Mr. Sampson Butler, would have saved us from that mortification. It would have saved, too, twenty members of this House from the humiliation of having to stand, as they have stood, unbonneted and dishonored at the door of one of your distant committee rooms. This section was thus literally forced into the apportionment bill, in despite of all the exertions and resistance of the Democratic party. What, then, was to be done ? An apportionment

bill was obliged to be passed. The Constitution expressly commanded that it should be passed. Without it, there could be no members elected—in fact, no Congress; and the Federal Government would have been at an end. To avoid a great calamity like this, I do not hesitate to say that the whole Democratic party would have been justified in voting for the bill, regarding the second section as a mere nullity. The Whig party, with the assistance aforesaid, had forced this obnoxious section into the bill; but as the existence of the nation is of infinitely higher importance than all considerations of the forms and modes of administering it, the Democratic party might have been well justified in voting for the bill. Well, what did they do? As long as there was the slightest hope that, by rejecting the bill, another might be introduced, on which the second section might not be engrafted, we voted against it. First, we voted against the engrossment. It was a test vote, substituted for a vote on the final passage of the bill; but we voted in vain. A motion was then made by Mr. Cooper, of Georgia, to lay it on the table: we voted for that, but all in vain; and the bill was sent to the Senate. Some hopes were entertained that the Senate might come to our relief, by striking the section from the bill. Here, too, we were disappointed; and the bill was returned to us from that body with sundry proposed amendments. We resolved to make one more effort. The gentleman from Kentucky, [Mr. Boyd,] moved to lay the bill, with all the amendments, on the table. The motion, like the previous one, failed; and with it expired all hope of our ever being able to get clear of the odious section of the bill. Sir, this was the last effort of the Democratic party to get clear of this section. But a motion was afterwards made by Mr. William Cost Johnson to lay the bill on the table; and the question is sometimes asked, why we did not all vote for that with the same unanimity as on the previous motions. Sir, I will tell you. The previous motions to lay on the table by Mr. Cooper and the gentleman from Kentucky, [Mr. Boyd,] were made *bona fide*, to get clear of the second section. Mr. Cost Johnson's was not. He was a great friend to that section. He had voted for it, and I believe had voted against every proposition to get clear of it. His only

object was to get an alteration of the ratio. With the ratio we were satisfied, and wanted no alteration. It was palpable that his purpose was to use a portion of the Democracy in getting a ratio to suit himself, and then turn round and use the Whig party to again fasten the second section upon us. Sir, Democracy may be overpowered ; she may be borne down by numbers ; but she can not be played upon in that manner. We knew his purpose went no farther than an alteration in the ratio. We voted against such an alteration. This was the substance and true nature of the vote, and so it was understood at the time.

So much, sir, for the action of Congress on the passage of this law. What has been the action of the States since its enactment ? Precisely what it was before. The Constitution of the United States expressly provides that the time, place, and manner of holding elections, shall be prescribed by the Legislatures of the different States. In pursuance of that provision, all the States had made the necessary and proper regulations for holding them—four by the general ticket, and all the rest by the district system. These four were New Hampshire, Georgia, Mississippi and Missouri. Their Representatives, presenting themselves here with the commissions of their respective States, have been recognized as members, not only in the organization of the House, but in all its proceedings, up to this time. This report maintains that they are rightfully and lawfully here, and ought to continue here, with all the rights and privileges of members of this House. Why should they not have been recognized as members of this House ? They were here with commissions precisely like our own ; signed by their Governors, countersigned by their Secretaries, and attested by the great seal of their States respectively. On the face of these commissions it does not appear whether they were elected by the district or general-ticket plan. No rival claimants were here, as in the New Jersey case, presenting counter-credentials, nor calling on the House to go *beyond* or behind these commissions. The shattered remnants of that party which had passed the law, protested against their recognition ; but they protested in the face of credentials precisely like their own ; in the face of their own favorite doctrine, so much relied

on in the New Jersey case, that the broad seal of a State was *prima facie* evidence of a right to a seat in this Hall. Day after day they clamored for the privilege of recording at full length their protest against their admission. According to all Parliamentary law, and all the rules of correct practice, they had no such right; but, in a party point of view, it might have been better to have allowed them to spread it on the Journal. It would have established against them, to all future generations, an inconsistency in doctrine, an instability of principle, only equalled by the atrocity of their attempted invasion on the rights of the States.

It is a proud reflection that, in the whole history of this subject, the Democratic party has preserved the most exact and beautiful consistency. It has followed the light of all the examples of its illustrious founder. In originally voting against this section, and in afterwards admitting the members on the presumptive validity of their credentials, we have manifested the most delicate and scrupulous regard for the rights of the States.

Mr. SPEAKER, I come now to the consideration of the constitutionality of the second section of the apportionment bill of 1842. If it be construed as a *command* to the States, it is evidently unconstitutional. If it fall short of a *command*, but is to be regarded as a penalty suspended over the heads of the States, depriving them of representation if they shall fail or refuse to conform to the declared will of Congress, it is equally unconstitutional. Who ever authorized this Government to hold penalties, conditional or unconditional, over the heads of the sovereign States of this Union? The *Constitution* may command them, but the *Congress* of the United States cannot. The Constitution *did* command them to prescribe the time, place and manner of holding the elections, and the States of New Hampshire, Georgia, Mississippi, and Missouri, have done so. On the days of the election of their present members, they are obeying this command of the Constitution; for they were acting throughout the election under laws which their Legislatures had enacted in precise accordance with the requisitions of the Constitution. Their laws, then, were as valid and binding as any law passed on the subject by Congress.

could be, so far as the source of power for such legislation was concerned—the power in both cases running back and resting on the Constitution. It is, therefore, perfectly plain that the regulations of those States were valid and binding at the time of their elections, unless Congress had either made new ones or altered those of the States. I am desirous, sir, to fix your attention on the very day, and on the hours of their elections. The people were assembled to exercise the greatest privilege of freemen; they were assembled on the right day, for Congress had not interferred with that; they were assembled at the right places, for Congress had not legislated at all as to them; what, then, remained of doubt or of question? Why, it must be as to the manner of *holding* the election—what officers should hold it—how the votes should be taken in, whether *viva voce* or otherwise. If the word *manner* has a wide signification in the general, it is here expressly limited by the word *holding*. Now, remember that the Legislatures of those States had provided everything necessary as to the *manner of holding* the elections; they had done that, too, by the express command of the Constitution. But did Congress, by the act of 1842, either alter these regulations as to the manner of *holding* the elections, or make new ones inconsistent with them? Congress did not touch that subject at all; it did not allude to the manner of *holding* these elections—who should take in the votes—whether they should be given *viva voce* or otherwise: all these matters were, therefore, unrepealed or unaltered by the act of Congress.

The elections so proceed. The people assembled—on the right day—at the right places; they gave in their votes to the right officers, who declared the result, and certified accordingly. Well, so far, none will deny but that the people have done all in *their* power, and that they have acted not only in accordance with the laws of the State, but with those of Congress. Why, then, can they not have their Representatives on this floor? They have complied literally with the laws of the State, and these laws were passed precisely according to the Constitution of the United States; nor have they acted in anywise inconsistent with any law of Congress in relation to the manner of *holding* their elections; why, then, cannot they

have the benefit of representation here? Gentlemen answer, because those States have not been *laid off into districts*. Well, I take the answer. Who did not lay off the districts? First, *Congress* did not; secondly, those States did not: no other body could have done it. And so between the action of Congress or of the Legislatures, the people are to be deprived of the great and inalienable right of representation. Sir, it cannot be so—it must not be so. Every intendment must be made, and every construction must be given to the action of Congress and of the Legislatures, which will preserve, and not destroy, a right so justly dear to freemen. Gentlemen reply to this by saying, that although Congress did not lay off the districts, yet she declared that the number to which each State should be entitled *should* be elected by districts, and that these districts should be composed of contiguous territory, and that it was left to the States to lay them off or not, as they might think proper. Mark, sir, the high imperative words which these gentlemen employ—which their law of 1842 employs: “*Shall* be elected by districts”—“*shall* be composed of contiguous territory.” To whom is this language addressed but to the Legislatures of the States? If Congress did not, who else *could* lay off the districts but the Legislature? who are even told *how* to lay them off—“*of contiguous territory*;” and yet gentlemen have over and over again admitted that as a *command* of the General to the State Governments, it is entirely null and void.

Let us now take another step in the progress of this argument. Suppose these four States to have obeyed this command of Congress, and to have laid off the districts: then, of course the election would have been held by districts. Why? Simply because the last law of the State, establishing the district system, would have repealed the former law of the State establishing the general-ticket system. So, if Congress, instead of issuing a command which it could not enforce, had proceeded to lay off the districts for and within the several States, then it might have been argued, on the other side, that the later act of Congress, establishing the district system, repealed and disannulled the former laws of the States, establishing the general-ticket system. In both these cases the argument is, that

the setting up of the one system is the pulling down of the other. Well, let us test this question by that argument. Did Congress set up a district system so incompatible with the general ticket of the States as to supersede or displace it? Did Congress set up or establish a district system at all? She declared there should be one set up or established by somebody, but by whom, she did not say. She did not set it up herself; and the advocates of her laws say she did not mean to command the States to set up or establish it; and these four States, accordingly, have not done so. The conclusion follows this statement of the facts, that, by not laying off the districts herself, Congress has only issued an abstract declaration of her will and pleasure, without setting up any system superseding or displacing that of the States. As a rule of action for the government of the people, it is impracticable. As a system for the preservation of their rights, it is impossible of execution. But shall their rights, therefore, perish? Certainly not. Unsecured by the vague and impracticable legislation of Congress, they shall live and abide in the legislation of the States; founded on the same authority as that of Congress—the Constitution of the land. It was to guard and preserve to the people this great right of suffrage, that a double protection was provided by the Constitution. It was to be protected both by the Legislature of the States and by Congress: neither could destroy it. If the Legislature should assail it by prescribing no regulations as to the time, place, and manner of exercising it, then Congress might *make* them. But the true question is, can Congress, under this conservatory provision, do anything, not to preserve, but to destroy this great right? Could Congress say, "I have left this power long enough with the States, and will therefore take it to myself"—the whole power over the time, place, and manner of holding elections? Saying and resolving this, could she pass a law declaring that all laws and parts of laws passed by the States providing for the holding of elections for Congress, should be repealed, and that hereafter all laws upon that subject shall be passed only by herself? If she went no farther than that; if she did not actually make the necessary laws for holding elections, would such a law be a valid repeal

of the State laws, and would the right of suffrage be lost and sacrificed? No, sir, never. Congress would have no right to repeal the State laws at all. Her abstract declaration would pass for nothing; and it would be only by going on beyond such abstractions, and actually building up a system of regulations totally inconsistent with those of the States, that she ever could supersede them. This glorious right, lying deep in the foundations of our free institutions, could not have been better secured. If it may ever die in the Legislatures of the States, it is because it springs into new life in the Congress of the United States; and when it dies here, it is re-animated in the States. Sir, in the theory of our form of Government, it is an immortal right, and can never perish but with our free institutions.

Mr. Chairman, there are many other views of this constitutional question, but I have not time to take them. I think it may well be questioned whether the term ~~matter~~ has allusion to the laying off of districts at all; and I entertain strong doubts whether, if Congress assume jurisdiction over any part of the regulations of elections, she must not take jurisdiction of the whole. However these question may be solved, I am clear in the opinion, that if she assume to regulate the time, she must specify the time; if the place, she must designate the place; and if the ~~matter~~ relates to districts, she must create the district, or other territorial division. These are my opinions; and I was in nothing so much surprised as that the dominant party, who passed the law, should have stopped short of actually laying off the districts; that being the most effectual way to have secured the accomplishment of their purposes. What were those purposes? I have already stated them—the perpetuation of their ill-gotten power. The elections were turning rapidly against them. Something must be done. This plan was devised. The ancient usages of the States were to be disregarded, and a command was to be sent forth which they knew many of the lion-hearted Democratic States would scorn to obey. Scorning to obey, they might return members to this House, who might sue in vain for admission here. Rejected, as they hoped all such would be, and as all such would have been but for the unusual Democratic

strength of this session, the sceptre of power might still be retained by them, in spite of the murmurs of a deceived and insulted people. Did you not mark the promptness, as if by concert and premeditation, with which the question of their admission was sprung upon the House on the first day of the session. Never before, since the foundation of this Government, was a document found ready printed and laid upon our tables before Congress was even organized. The speech of one of the advocates of this second section, made in 1842, was here, bright and fresh from the press, by ten o'clock in the morning. Besides this, did you ever see so long a protest prepared and presented in so short a time? Everything seems to have been "cut and dried" for the occasion. Now, sir, suppose your majority here had not exceeded twenty, do you not perceive the consequences? With a large majority of the people of the United States Democratic, you would have had a Whig Speaker—Whig Committees—Whig Printers—Whig organization throughout; and the whole system of Whig measures might have been still fastened on the country—condemned and repudiated as they had been by the American people. What could have saved this country from such results? Nothing I know of, nothing but a repetition of those Executive votes, which entitle the President to the lasting gratitude of the nation. Even now you every day hear the sound of the guillotine from the other end of this building, and behold the headless bodies of their victims borne away from the Capitol; what would have been the state of things then, with both branches fully organized against you? What could you have done to stay the arm of Federal domination? In connexion with this view of the subject, take that other bill passed at that session auxiliary to this—the bill providing for the organization of this House. The Constitution expressly provided that each House should be the judge of the election, qualification, and return of its own members. By that bill all this power was given to your then Clerk, a warm and devoted friend to the dominant party. No appeal could be taken from his decision—his decree of admission or rejection was to be final and conclusive. I know it is often said that such admission was to last only during organization, and until the

Committee of Elections might report on the case. When might that be? Look at the New-Jersey case; the Sailor and Ingersoll case; at the Florida case, and others, and tell me if this might not be at the end of the Congress? That bill was a most flagitious outrage on the right of this House. It brought you, impotent and powerless, at the feet of your own Clerk. But that bill passed; and nothing saved you from its operation but the noble conduct of the President, in not returning it within the time required by the Constitution, it being the very close of the session. Taking, then, these two laws together, and they exhibit the deepest laid scheme for the perpetuation of power ever laid since the formation of this Government.

Mr. Speaker, there is one point of view in which the passage of this second section should be peculiarly obnoxious to the American people. The adoption of the Federal Constitution, after it had been made, was of vast importance and of painful solicitude. Many of the illustrious men who framed it were extremely doubtful of its ratification. The State Conventions, to whom it was referred, participated fully and deeply in this solicitude. They found many things in it which they did not really approve; but rather than hazard the whole of that sacred instrument, they concluded to let them pass, and trust to the future wisdom of Congress not to abuse the powers which they had conferred. The clause of the Constitution which declared that Congress might make or alter the regulations of the States, as to the time, places and manner of holding elections, is a most apt and striking illustration. The power was too broad in its language. They desired Congress to have the power only in the single case where the States *would not or could not* make such regulations; but the terms seemed to extend beyond that. What should they do? Reject the Constitution, and trust to the formation of another? The difficulties they had encountered in the formation of this, and the incalculable mischief growing out of the want of a Constitution, induced them at last to ratify it as it was; but to leave on their records, for the guide and instruction of their posterity, the most solemn instructions that they should never take advantage of the defect. It was a known, declared, admitted defect. But they appeal to their posterity to appre-

ciate the trying circumstances by which they were surrounded, and never to take advantage of it. That appeal sunk deep in the heart of every American bosom, and was never disregarded till 1842.

Sir, let us go back to the records of that ancient time, and read the very words of exhortation and instruction which were uttered by those immortal patriots who ratified the Constitution. I begin with Massachusetts. What did she say as to the very clause under discussion? She placed upon her records the following declaration:

"The Convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution: Section 8. That Congress do not exercise the powers vested in them by the fourth section of the first article, but in a case when a State shall *neglect or refuse* to make the regulations therein mentioned, or shall make regulations *subversive* to the rights of the people to a free and equal representation in Congress, agreeable to the Constitution. And this Convention do, in the name and in behalf of this Commonwealth, enjoin it upon their Representatives in Congress *at all times*, until the alterations and provisions aforesaid shall have been considered agreeably to the fifth article of said Constitution, *to exert all their influence*, and use all reasonable and legal methods to obtain a ratification of said alterations and provisions, in such manner as is provided in said article."

Sir, had any State *failed* or *refused* to provide for the election of members to Congress? Not one. Did the Representatives of that ancient Commonwealth "*exert all their influence*" against the exercise of this power in any other case? They did not; but voted for this section, in disregard to the most solemn injunctions of their fathers.

I next advert to the State of South Carolina—the Palmetto State—so proud, and so justly proud, of those illustrious patriots who adorn her Revolutionary history. Her Convention declared that the power to make regulations for the election of members should be forever inseparably annexed to the sovereignty of the States, except in the single case of *refusal or neglect* by the States; and they adopted the following resolution:

"And whereas it is essential to the preservation of the rights reserved to the several States, and the freedom of the people, under the operations of a general government, that the right of prescribing the manner, time, and

places of holding the elections to the Federal Legialature, should be inseparably annexed to the sovereignty of the several States : This Convention doth declare, that the same ought to remain, to all posterity, a perpetual and fundamental right in the local, exclusive of the interference of the General Government, except in cases where the Legislatures of the States shall refuse or neglect to perform and fulfil the same, according to the tenor of the said Constitution."

"Resolved, That it is a *standing instruction* to all such Delegates as may hereafter be elected to represent this State in the General Government, to exert their utmost abilities and influence to effect an alteration of the Constitution conformably to the foregoing resolution."

Need I pause to inquire whether, in the adoption of this second section the Representatives of that gallant State did exert their utmost abilities and influence in obedience to these *standing instructions*? I have already told you that two of them felt at liberty wholly to disregard them—solemn and time-honored as they were, these gentlemen felt at liberty to disregard them.

The State of New Hampshire comes next in order—the granite State—granite in her Democracy, as she is in her geology. The declaration of her Convention is in nearly the very words of Massachusetts; limiting the exercise of this power to the single case of neglect and refusal, and enjoining *at all times* on her Representatives to make such limitation an express and positive provision of the Constitution.

"The Convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution :

"III. That Congress do not exercise the powers vested in them by the fourth section of the first article, but in cases when a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress; nor shall Congress in any case make regulations contrary to a free and equal representation."

"And the Convention do, in the name and in behalf of the people of this State, enjoin it upon their Representatives in Congress, *at all times*, until the alterations and provisions aforesaid have been considered agreeably to the fifth article of the said Constitution, to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article."

Virginia (next in order) went farther than all this. She not

only declared in favor of an amendment limiting the power to the case of refusal or neglect, but she expressly enjoined it upon her Representatives, until such alteration of the Constitution shall be made, "to conform to the *spirit* of the amendments, as far as the said Constitution will admit."

"XVI. The Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect or refuse, or be disabled by invasion or rebellion, to prescribe the same."

"As the Convention do, in the name and behalf of this Commonwealth, enjoin it upon their representatives in Congress to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the foregoing alterations and provisions, in the manner provided by the fifth article of the said Constitution; and in all congressional laws to be passed in the mean time, to *conform to the spirit* of these amendments, as far as the said Constitution will admit."

The State of New York was peculiarly guarded and cautious in *her* ratification of the Constitution. Amongst other limitations and conventional constructions of that instrument, she declares "her adoption of this clause, under the expectation that Congress will not make or alter any regulation in this State respecting the time, place, and manner of holding elections for Senators and Representatives, unless the Legislature of this State shall *neglect*, or *refuse* to make laws or regulations for the purpose, or, from any cause, be *incapable* of making the same; and in those cases such power will only be exercised while the Legislature of this State shall make provision in the premises." But the New York Convention did not stop even here; they adopted the very words of Virginia, and in the name and in behalf of the people, *instructed* their Representatives that until this clause should be amended, "all laws to be passed by Congress in the meantime to conform to the spirit of such amendments, as far as the Constitution will admit."

I come now to the State of North Carolina. She gives a most emphatic expression of her views and wishes in relation to the extent of this power in Congress over the "time, place, and manner of electing Representatives to Congress." Her seventeenth amendment provides "that Congress shall not

alter, modify, or interfere in the times, places, or manner of holding elections of Senators and Representatives, or either of them, except when the Legislature of any State shall *neglect or refuse*, or be *disabled* by invasion or rebellion, to prescribe the same."

When Rhode Island soon after the rest, came in, it was under a ratification, declaring the same purpose to amend the Constitution on this point; and until it was done her positive injunctions to her Representatives were, like those of New York and Virginia, that they should conform to the spirit of such amendments.

Thus, sir, I have given you seven out of the old thirteen States, who contended against a literal construction of the Constitution as it was worded; seven out of the thirteen who declared that its wording must be changed; seven out of the thirteen who declared that, until it was so altered, their members of Congress must conform to the *spirit* of that clause as they had expounded it. What a sacred, what a holy injunction was here! They did not like the *words* of this section; but they approved the balance of the Constitution. They believed the future glory and prosperity of their country depended on its immediate adoption. They were unwilling to risk losing all for the sake of some few amendments to it. In this great emergency they ratified it as it was; but called on their posterity to the remotest generation, not to take advantage of its specified defects, but to conform to *its spirit* with fidelity and honor.

Sir, I will not speak for others; but I will say for myself, that I would tear the seals from a father's will; I would disregard his last dying request, as soon as I would have disregarded the consecrated instructions of these great benefactors of their country. Sir, let us restore these instructions—let us re-establish their will, by repealing the second section of the apportionment act. Let us, moreover, re-affirm the invalidity of this section, by continuing a full representation of all the States on this floor. There is not a warmer friend to the district plan of electing members of Congress than I am. But let it be done freely and voluntarily by the States themselves and not be forced on them by the strong arm of Federal

power. Almost every State in the Union is now electing by districts. Repeal this section of the law—withdraw your unconstitutional mandamus, as some regard it—remove those pains and penalties which you have suspended over the States, and I do not doubt that, in less than two years, scarce a single State will be found electing by the general ticket.

## S P E E C H,

*On the Territorial Government of Oregon; delivered in the  
House of Representatives, Monday, January 27, 1845.*

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Mr. A. V. Brown said, in reply to the gentleman from Massachusetts, why he had made the motion to strike out the word "nine," he would state that, at the last session, when the Committee on Territories reported this bill, it was reported correctly but by some mistake in copying, or otherwise, 49 minutes was inserted instead of 40. Where did the committee get the 54 degrees 40 minutes from? he supposed was the question substantially which the gentleman intended to ask. He read from the report of the Committee on Territories of last session, showing that that parallel was taken from the treaty between the United States and Russia of April, 1824.

The gentleman from Massachusetts seemed anxious that this subject should lie over. Mr. B. had called it up this morning because of its importance to the whole country, and because he had given assurance that he would move it immediately after the settlement of the great Texas question. Thus he had called it up; he had no design however to press it with a precipitancy unbecoming the magnitude of the question.

So far as related to the American title to the country, to the full extent of the limits proposed by the bill, as reported by the committee, he knew of no public man in the United States who did doubt the title of the United States to the full extent of fifty-four degrees forty minutes. But the Committee on Territories, when they proposed to extend our laws to the whole extent of that country, did not imagine that they were interfe-

ing in the slightest degree with the negotiation now in progress upon the subject; and the committee believed that the United States was asserting only the same jurisdiction over that entire country that Great Britain was now exercising. It was well understood that the laws of the United States now extended over that whole territory. Why, then, might not we do what they proposed? Our people had gone to that country, to which few, if any, entertained the slightest doubt of our title; and being there, they stood every day in need of our legislation. Great Britain had her magistrates there; she had sent thither her code of laws, her judicial tribunals; she had fortifications studded all over that country; and what was there in existing treaties which forbade our doing the same thing? Should we lag behind—ay, should we longer lag behind on this great question? We did not propose to do more than she had done, but to do as much; and he trusted that this House, would never hesitate to do it, which they might do without violating any existing stipulations between the two countries.

He had never believed that, under the treaty of 1818, or of 1827, Great Britain, or any of her subjects, ever held joint possession or occupancy of that territory with the United States. The Committee on Territories entertained the opinion that we had had, at least since 1812, exclusive right of possession; and Great Britain had never divided that right with the United States at all. The stipulation of the treaty was only that they should have the privilege of entering through the bays and harbors of that country into Oregon, for the purpose of carrying on their trade, for purposes of hunting and fishing, &c.; but while they had this privilege it never was intended by the stipulations of our treaty that they should come in and claim undivided possession of the territory. However that might be, if they claimed joint possession with the United States, and had extended their laws there, was there any reason why the United States might not do the same thing? There might be collisions, to be sure, in joint occupation; and when they arose, they must be provided for; but the question of the probability of collision was not one which addressed itself to this House at all. That was a question for the consideration of

the executive, whether he should give the notice contemplated by the convention of 1827. Now, the Committee on Territories believed, when they reported this bill, that they were acting strictly and exclusively within the legislative powers of Congress; that they were leaving the executive to act when and how it pleased with regard to giving this notice to terminate what was usually called the joint possession of this country. That was a question with which they did not intend to interfere. The gentleman from Massachusetts had stated that he had no doubt as to the ownership by the United States of that country from forty-two to forty-nine degrees. Well, over so much of the territory it would be right to extend our laws and our institutions; and the committee believed our title was good from forty-nine degrees to fifty-four degrees forty minutes, and they proposed to extend our jurisdiction over the whole country.

Suppose, now, this jurisdiction progressed and terminated by the loss of that portion of the country, (which he supposed only for the sake of the argument, and which he had no idea would be the case,) why, to that extent the treaty stipulations between the two countries would curtail our legislation, and would leave our resolutions in full force, and our laws in full operation over the whole territory south of the line ultimately agreed on by this negotiation. So, that in no possible point of view could he imagine any reason why this House should not go as far as they were called on to go by the Committee on Territories. Let the negotiation terminate as it might, there must be a large portion of the territory to which Great Britain, although she had claims, had yet no just claims; and over that territory our legislation was to be extended.

But inasmuch as Great Britain, as the gentleman from Massachusetts had said, exercised jurisdiction as far as forty-two degrees, could we not as well exercise jurisdiction up to fifty-four degrees forty minutes, with as much propriety; leaving all questions with regard to settlement of boundary to the negotiation, as now progressing, and leaving this House and the other branch of Congress to establish a territorial government in that country, subject to whatever was the result of the negotiation?

In this view the bill was reported; and he desired, in order that every gentleman should be fully apprised of the grounds on which the bill was presented to the House, that a few pages of the report of last session accompanying the bill should be read.

They were read by the Clerk accordingly, as follows:

In presenting this bill thus modified, and recommending its passage, it is a source of satisfaction to the committee to know that it is in precise accordance with the avowed opinions not only of the present, but of several preceding Presidents of the United States. As far back as December, 1824, Mr. Monroe, in his annual message to the two Houses of Congress, strongly recommended the propriety of establishing a military post at the mouth of the Columbia river, or at some other point within our acknowledged limits. This he did, not only as a protection to our then increasing commerce, and to our fisheries, but as a protection to all our interests in that quarter, and as a means of conciliating the various tribes of Indians throughout our northwestern possession. He further added, "that it was thought, also, by the establishment of such a post, the intercourse between our western States and Territories and the Pacific, and our trade with the tribes residing in the interior, on each side of the Rocky Mountains, would be essentially promoted. Mr. Adams, in his message to the next succeeding Congress, follows up this suggestion of Mr. Monroe, and recommends not only the establishment of a military post at or near the mouth of the Columbia, but the equipment of a public ship for the exploration of the whole northwestern coast of this continent. If these recommendations are limited to the protection of our commerce and fisheries, to the trade with intermediate Indian tribes, and to the promotion of our intercourse with the Pacific, it must have been only because at that time we had no fixed population there, looking to the permanent settlement of the country for agricultural purposes. Since 1824 and 1825, however, we have advanced far beyond the then necessities of our people, and are now called upon to give the protection of our laws and the benefit of our free institutions to those who have made it their permanent abode,

and whose purposes are to bring into cultivation that vast portion of our empire.

The President of the United States, in his annual message at the commencement of the present session, presented these altered circumstances in the condition of that country to the attention of Congress, and with much cogency recommended the very measure which the committee have reported. He says: "In the mean time, it is proper to remark, that many of our citizens are either already established in the Territory, or are on their way thither, for the purpose of forming permanent settlements, while others are preparing to follow; and, in view of these facts, I must repeat the recommendations contained in previous messages, for the establishment of military posts at such places on the line of travel, as will furnish security and protection to our hardy adventurers against hostile tribes of Indians inhabiting those extensive regions. Our laws should also follow them, so modified as the circumstance of the case may seem to require. Under the influence of our free system of government, new republics are destined to spring up, at no distant day, on the shores of the Pacific, similar in policy and in feeling to those existing on this side of the Rocky Mountains and giving a wider and more extensive spread to the principles of civil and religious liberty.

In the bill which we have reported, it will be found that we have responded not only to the opinions of Mr. Monroe and Mr. Adams in relation to the establishment of military posts but we have adopted the just and proper sentiments of the present executive in reference to the increased settlement of our population in that distant region. Our people have gone to Oregon, and we are only sending our laws after them. It might be greater precision, however, to say that our laws had preceded them; that they had been always there, coeval with our rights to the country; and that we are now only proposing to give them activity and force by government organization. In doing so, we introduce no new policy into the action of the federal government. At the time of the establishment of our national independence, our population was confined to a comparatively narrow slip of country bordering on the Atlantic. As fast, however, as our settlements extended into the West

in sufficient numbers, new Territories were established. These, at first, were confined to the Mississippi river for their common western boundary. After the acquisition of Louisiana, the same wise and necessary policy has been pursued, observing limits, in several cases, but little short of the Rocky Mountains. In the rapid march of our empire-republic, the time has now arrived for the extension of the same policy beyond those mountains, recognizing the shores of the Pacific as the only final terminus of our dominions.

The propriety of this extension is dependent, of course, on the validity of the title of the United States to the territory embraced in the bill. This question we were obliged to meet anterior to all action on the subject. In its investigations we have looked into the most authentic histories of voyages and discoveries on the northwestern coast of America. We have consulted the opinions of our most distinguished and best-informed public men, from Mr. Jefferson down to the present time. We have carefully examined all the treaties among the several nations claiming to have an interest in the subject; not neglecting to profit by the reports made by Mr. Baylies to the 19th, and Mr. Cushing to the 25th Congress, and by the several reports and speeches of the late lamented Senator from Missouri, who had devoted so much of the labor of his great mind to the investigation of this subject. The result of all this investigation has been a thorough conviction that the United States has a good and indefeasible title, as against any foreign power, to the country extending east and west from the Rocky Mountains to the Pacific ocean; and north and south from the limits of Mexico, in latitude 42 degrees north, to those of Russia, in latitude 54 degrees 40 minutes north.

The southern boundary was fixed by the treaty with Spain in 1819, commonly called the Florida treaty. By that treaty it is agreed that the boundary line between the possessions of the two nations west of the Mississippi, after reaching the river Arkansas, shall be, "following the course of the southern bank of the Arkansas to its source in latitude 42 degrees; and thence by that parallel of latitude to the South sea." In 1828 this line was confirmed by Mexico, as the successor of Spain, in a treaty of limits between herself and the United

States. Southern boundry is, then, fixed and certain. As to the northern one, it was settled at 54 degrees and 40 minutes, by a treaty between the United States and Russia, dated 17th April, 1824, by which it was agreed that there should not be formed by the citizens of the United States, or under the authority of the same, any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of 54 degrees and 40 minutes of north latitude; and, in like manner, none by Russia or her subjects south of the same parallel of latitude.

By virtue of these treaties, Russia on the north, Mexico on the South, and the United States on the east, are all agreed and well satisfied as to the boundaries of the Oregon country. Great Britain alone asserts or pretends any title to it, or any part of it, adverse to that of the United States.

Before we enter upon any examination of her title, we respectfully beg leave to submit our views on another question presented to our consideration. It is contended that the passage of the bill now reported would be inconsistent with the actual relations of the two governments defined by the convention of the 20th October, 1818. The 3d article is as follows:

"Art. 3. It is agreed that any country that may be claimed by either party on the northwestern coast of America, westward of the Stony mountains, shall together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present convention, to the vessels, citizens, and subjects of the two powers. It being well understood, that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties *may have to any part of said country*; nor shall it be taken to affect the claim of any other power or State to any part of said country: the only object of the high contracting parties, in that respect, being to prevent disputes and differences among themselves."

The provisions of this article were indefinitely extended by the convention of 1827—with, however, an agreement that it should be competent for either, at any time after the 20th October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate said convention. The first remark which the committee will submit on the provisions of the 3d article of the convention of 1718, is, that they do not refer to the possession of the territory at all. That possession had always been in the United States until the war of

1812. It was then lost by conquest; but it was fully restored by the treaty of peace, and the formal surrender of it to the United States under that treaty. It was only the right of entering into the country—into its bays and harbors—for the mere purposes of such trade and commerce as was then carried on in that region, that was secured to the subjects of Great Britain. The same rights might have been extended to any of the ports, bays, and rivers of the Atlantic; but if extended in the precise words of the convention of 1818, who would have thought that Great Britain would have been admitted to the joint occupancy of Massachusetts, New York, Virginia, the Carolinas, and the other States of the Union?

If the possession of the territory was in the United States at the time of the convention of 1818—a fact which no one has ever attempted to deny—the provision of the 3d section can only be regarded as a permission to the subjects of Great Britain to participate with ours in the individual rights of trade and commerce enjoyed by our own citizens within the territory. The bill which is now reported does not eject them from the country at all. It does not deprive them of the privilege of entering into the country, its bays and rivers; not at all. But it even guarantees a fuller and more perfect enjoyment of these individual rights, under an organized and well-administered system of laws. From extreme caution, and to exhibit towards Great Britain the most scrupulous regard for all existing stipulations, which might be supposed to have an application to the subject, the bill proposes a speedy surrender of all British subjects who may be charged with any violation of our laws to the nearest British authorities having jurisdiction over such cases. The permission given to British subjects to participate with our own citizens in the enjoyment of personal or individual rights within the territory, never can be considered as circumscribing the right of the United States to establish a proper government for the regulation of all persons inhabiting the country, of which she had the undisputed possession. In this view, the provision for delivering up British subjects to their nearest tribunals could not have been justly required; but the same has been conceded by the committee, on the scrupulous principle just adverted to.

As to the twelve months' notice required to be given by the convention of 1827, the committee do not regard that as at all necessary, in order to open the way to such action as is contemplated by this bill. The committee do not know that, for the purpose of organizing such a government as is now contemplated, it is at all important to annul or abrogate that convention. That country is large, and there is evidently room enough for the subjects and citizens of both countries, in the exercise of all their enterprise in trade and commerce. All that will be required of them is to conform to the laws, and to respect the institutions, which we may establish. Doing this, we shall never envy the equal participation in the benefits and advantages to be derived from a well organized system of government. Any possible inconvenience arising from the continuance of the convention of 1827, not now anticipated by the committee, can, and doubtless will, be looked to by the executive, who can at any time abrogate the same, by giving the notice contemplated in it. The giving of that notice, being a matter of treaty stipulation, belongs, perhaps, exclusively to the executive; on whose province there is no occasion and the committee have no inclination to intrude.

In connection with this branch of the subject, the committee will advert to the fact, (as it is now understood to be,) that negotiations are in progress between the United States and Great Britain on the subject of this territory. They conceive that this should make no difference in the action of the committee. They have to act on the subject as it is now presented to them—not as it *may be* changed or altered hereafter, by any future arrangements between the two countries. If the United States have *now* the right to the Oregon country—if they have *now* the sole and undisputed possession of it—if our people have *now* permanent settlements in it, and every day suffering for the want of properly-organized government to protect the virtuous and restrain the vicious—we ought not to withhold our action, under the possibility of some alteration in the relations of the two countries in that region, at some uncertain and indefinite period. That negotiation can still progress; and any treaty stipulation inconsistent with our legislation, will control it to the extent of such interference. No one, we

believe, supposes that the pending negotiations can ever result in the entire loss of the Oregon country. Enough will doubtless remain of it, under any circumstances, to require the extension of our laws in the manner now contemplated. If the present negotiation relates (as the committee apprehend it does) solely to the ascertainment and settlement of the northern boundary of the territory, they can anticipate, from no examination which they have been able to make, any such loss of country in that direction, as will at all affect the propriety of the passage of the bill which is now presented to the House.

There is enough, doubtless, for that negotiation to act upon, without resorting even to the supposition that any portion of our territory south of latitude fifty-four degrees forty minutes north may be lost. We propose the extension of our laws fully up to that latitude, and will now submit the grounds on which we maintain that the United States has a full and indefeasible right and title to that point. We adopt as our own, and submit to the house, the views of a former committee on the question of title; which we believe must carry conviction to every disinterested and impartial mind.

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#### FEBRUARY 4TH.

Mr. A. V. Brown supposed it was necessary that he should submit some few remarks in reply to the gentleman from Massachusetts, [Mr. ADAMS.] The gentleman seemed to think that some days ago he treated him with some degree of rudeness in declining to postpone this bill to a day that he proposed. In reply to a suggestion at the time made by the gentleman, he said that he had no disposition to drive this bill through, but that it was subject to the direction of the members of the House, who could hasten or retard its progress as they pleased. What was the reason the gentleman gave for wishing to postpone it? Why, there was a book which very few had heard of, that gave so much information on this subject that every difficulty would be settled by getting it, and he wanted to delay

the action of the House till that book was procured. Why, this book had been published years ago by order of the Senate, and every member of the House could get it by application for it. But it was said there was a new and enlarged edition of it, which gave new lights which were not found in the first edition. But who did not know that the reports made to the House by Mr. Pendleton, and by Mr. Cushing, on this very subject, contained all the information that could be given on it? Indeed, either of them was far more valuable than Mr. Greenhow's book, and could be had by any member that desired, at a moment's warning. Again, the gentleman said that he was satisfied that our title to the country was indisputable. Why, then, wait for any body's book? The gentleman quoted him as saying that he considered it the duty of the executive only to give the twelve month's notice to end the joint occupancy, and that this House had nothing to do with it. Now, the gentleman did not explain his (Mr. B.'s) position correctly. He did say that the executive was competent to give the notice, without the action of the House, having more information on the subject than they could possibly have; but he did not say the House had no right to give the notice. That was a point which the committee did not touch on in their report, and which he did not make in his remarks of yesterday.

The gentleman from Massachusetts had read a portion of the correspondence between the two countries at a former period, and by examination of the report, part of which had been read, it would be found that the committee had adverted to the same correspondence, and incorporated in their report the material part of that correspondence—or such as they supposed would have a material influence on the question. He wished the gentleman from Massachusetts had read a little further than he did of that correspondence. On the 23d page of the report the committee speak as follows:

“The injustice done to the United States by the double use which Great Britain makes of the Hudson's Bay Company, was strongly urged by Mr. Gallatin, in his conferences with the British ministers on the subject, in 1826 and 1827. The British ministers were not insensible to the force of his objections. And the following passage of Mr. Gallatin's letter of December 20th, 1826, is important in its bearing upon the question of what

legislation Congress may adopt, without infringement of the treaty relations of the two powers:

“The establishment of a distinct territorial government on the west side of the Stony Mountains would also be objected to as an attempt to exercise exclusive sovereignty. I observed that, although the Northwest company might, from its being incorporated, from the habits of the men they employed, and from having a monopoly with respect to trade, so far as British subjects were concerned, carry on a species of government without the assistance of that of Great Britain, it was otherwise with us. Our population there would consist of several independent companies and individuals. We had always been in the habit, in our most remote settlements, of carrying laws, courts, and justices of the peace with us. There was an absolute necessity, on our part, to have some species of government. Without it, the kind of sovereignty, or rather jurisdiction, which it was intended to admit, could not be exercised on our part.”

Now what follows, the gentleman from Massachusetts did not read.

“It was suggested, and seemed to be acquiesced in, that the difficulty might be obviated, provided that the erection of a new territory was not confined exclusively to the territory west of the mountains; that it should be defined as embracing all the possessions of the United States west of a line that should be at some distance from, and east of the Stony Mountains.”

After commenting on these extracts, the honorable gentleman proceeded. The bill at the last session was drawn in conformity with these suggestions, and the jurisdiction of Iowa was proposed to be extended over the Territory of Oregon; but at the present session Iowa was to be admitted into the Union, and to take her laws would be inconvenient, if not inconsistent. What then, was the committee to do, with the prospect of Iowa coming into the Union? Why, they went on to establish a distinct Territory, beginning at the summit of the Rocky Mountains. In this they had departed from the letter of the admissions made by the British minister; but had they departed from them in substance? What had they done? He put the law of 1803—and it was that law which had deceived so many gentleman on this floor—it was in that law that they pretended to find an exemption of American citizens from the operation of British laws. But in 1803 they knew that American citizens were not there in any considerable numbers; there were Europeans there, and it was in their favor that the exemptions were made. But in 1821 our claims

had ripened up, our citizens had gone there, and it became necessary to make a new provision. What, then, did the British Parliament do? Extended the jurisdiction of the laws in force in Canada to the Oregon, appointed justices of the peace, who, being sent there, had jurisdiction in certain cases; and every man, whether an American citizen or a British subject, was subject to the laws passed by the British Parliament. For the higher offences, the party committing them was arrested and taken to Canada for trial. He invited the attention of gentlemen to an examination of the law of 1821, which extended the laws of Great Britain over that country, to see if they could find one solitary exception in favor of American citizens. He hoped they would be able to do it; he should rejoice at the discovery if such a provision could be found; but he could not find it himself, and he questioned if anybody else could.

He now came to the question of what they proposed to do by this bill. Was it anything which the British Parliament had not done by its legislation? He maintained that they proposed to do no more than the British Parliament had done—not one solitary thing. Was it said that the British Parliament had not sent governors to Oregon? Be it so: but the British governor was in Canada, and, by virtue of his office, he was governor of Oregon, though not actually being in the territory; and when we appoint a governor and send him to the place where his duties are to be performed, there was no difference in point of principle. The English Judges, too, reside in Canada, and ours would reside in Oregon. Was there any actual difference in principle in that? Were we carrying out rights beyond what Great Britain had done? Where and in what respect, were we going one inch beyond the example which England had set us? And if we do not go beyond that example, where is the cause for war? What provocation do we give for war? Not the slightest; and Great Britain could not declare war against us for anything contained in this bill, unless she sought a war for another purpose, and if that was her desire, he would say, let her have it—in the first day and hour that she desired it, let her have it. Since he had had a seat on this floor, he had seen more than one day when he could have said, let her have it. Who did not remember the case of

the "Caroline," when British soldiers were rowed with muffled oars to our shores, and cut loose an American steamer which they sent blazing down the stream and over the cataract of the Niagara, with all her unfortunate inmates? The waters of the Niagara have been long since closed over that ill-fated vessel, but a cry for vengeance came up from the deep and troubled waters in which the Caroline was engulfed. For the present, however, he would let that pass. Why should England talk of war? Was it because we take possession of the disputed Territory just as she has done? He could not believe that such a result would ensue.

He then proceeded to say that he had never seen an American Congress take hold of an American question with a better spirit than on this occasion, and therefore he had heard, with pleasure, the suggestions which had been made, come from what quarter they might. One suggestion offered and reasoned upon by the gentleman from Pennsylvania, had convinced him, and he adopted the suggestion, and had prepared an amendment precisely in accordance therewith. It had been said, you are breaking the third article of the convention by passing this bill; but this he denied. But again, it was urged, suppose it should be so understood, and Great Britain should believe that they intended to do so. Well, to negative this, he had prepared a provision reciting that third article, and then guarding against such a conclusion. Now he supposed that would obviate all objections, but another gentleman rose and said, oh! you are taking a step that Great Britain never intended nor contemplated. What was that? Oh! you are dividing out and partitioning the land, regardless of the rights of Great Britain. To this he replied, that they knew very well that any grant of land must be subject to the future adjustment of the two countries; but if they would rather have it so expressed in the bill, be it so; and to meet that he had prepared a provision. But how would that operate? Were the people who were settling south of the Columbia river ever to be disturbed under any circumstances? Were we ever to lose a foot of land there? There was not an American citizen whose heart would not leap in his breast at the bare idea of making any concessions south of the Columbia river. But

suppose our citizens should settle north of the Columbia river beyond forty-nine degrees of north latitude, or fifty, fifty-one, fifty-two, fifty-three, fifty-four, and beyond the line that might be drawn whenever this question shall be settled by negotiation, or by war if they pleased: the moment our title failed to the part on which those citizens resided, they would drop down to our undisputed territory and say they had lost their pre-emption right; and who would say that this government could not at once give them another pre-emption right as good? Did that embarrass the case? Not at all. Who was there, then, that was not willing to give a pledge to every man that should go to that country and cultivate it, of a liberal renewal of pre-emption right elsewhere, if he should be dispossessed by the establishment of the British title to the land he might occupy? Would that injure the British government? Could she take offence at such a provision in our law?

From these remarks the committee would perceive that he had availed himself of every suggestion which had been made, so as to make the bill acceptable to the House, as he thought it would be acceptable to the British government. He came next to speak of the suggestions made by the gentleman from Massachusetts, which coming from him, were of great weight and importance. The objection was, that they had started at the wrong end, and that they should give the notice first. Now he (Mr. B.) did not so understand it. If that were the correct course, he would, with pleasure, follow in the wake of the gentleman from Massachusetts; but he did not so understand it. Why did they propose to pass this measure? Simply because our people have gone to that country, and are there without government, and we want to give them the benefit of our laws. They had not fled from their country, nor from our laws and institutions; they have carried all with them, and what was now proposed, was, to give them the benefits of our laws in their urgent necessities. Some gentlemen said they had got judges there already; but they were laws for organized British society, and they were British judges. They preferred our laws to British laws. But it was said they had organized their own society, and had framed their own laws. True, they had for some government was necessary; but nothing could induce

them to adhere to their own organization, but our refusals to meet their wants and necessities. But if they should first give the notice of twelve months, they would be met with the plea that the British settlers could not abandon the territory, because they had contracts made and business unsettled. And if they gave notice to quit, and the British did not then quit, what would be the next step? Would they drive away the foreign settlers? In such a case would they not resist on the ground of the necessity to stand in self-defence. This bill, however, avoided the evils of a different course, and gave to American citizens a government and the protection of laws which the British settlers enjoyed.

The honorable gentleman recapitulated some of the provisions of this bill for the trial of persons guilty of crimes, to show their liberality; and that they must prove unexceptionable to Great Britain. He said he was careful that they should do nothing wrong; and then he could bid any power defiance. He confessed that he was afraid of an unjust war with England or any other nation; but when we had justice on our side, he would quail before no power on this globe; and this would account for the zeal which he felt on this and on the Texas question too. He wanted Texas because England wanted it. Great Britain did not desire any increase of our power which would make us more formidable to the nations of the earth. The stars of our republic shone so bright that they have attracted the envy of foreign nations: the crowned heads of Europe looked upon our prosperity with amazement; for they knew the impression which our example produced on their own population, and hence they were desirous to destroy the influence of our example.

He wanted Oregon for the same purpose; he wanted our population to spread from ocean to ocean—from the Aroostook on the north to the Rio Del Norte on the South—a magnificent empire which should strike terror and dismay to the enemies of our institutions, and of republican forms of government. Give us this bill, (said Mr. B.) guarded cautiously benevolently guarded, as it was; give us Texas, and we will have an empire before us which will fill every American heart with pride and with joy.

## S P E E C H ,

*In the House of Representative, March 17, 1840—On the Resolution reported from the Committee of Elections by Mr. CAMPBELL, their chairman, proposing to print all the testimony connected with the New Jersey contested election, and the amendment of Mr. GARLAND, of Louisiana, to print other testimony referred to that committee, subsequent to its report :*

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Mr. Brown desired that the resolution might be read, on which this exciting and extraordinary debate had been going on. He desired it, that the House might be brought back to the precise character of the proposition before it—not one touching the merits of the controversy; not one involving the truth of the facts set forth in the report, nor the action of the House, in admitting five of these gentlemen to temporary membership on this floor. All these things have passed by—the report has been made—it has been sanctioned by the House, and the five gentlemen are now here present in their seats. All the testimony on which these proceedings have taken place, has been reported to the House, and the committee now stand here desiring and insisting that it should be printed. But *these papers*, now desired to be *also* printed, were not considered by the committee, because they were never before them in the form of evidence. Not one solitary member ever saw the inside of that package until after the report was made. It was sealed up from all inspection, and therefore constituted no part of the foundation of this report. Why then should it be printed with it, as a part of it, when in truth and fact it

was never opened here, nor referred to the committee, until after its report had been made? We desire all the testimony before the committee, and on which the report was founded, to be printed and sent out with it, in order that the people of this country may be able to see and determine whether the committee and this House have done right in the New Jersey case. To print these depositions, which came in *after* the report, can shed no light on the propriety of what has been done. They are now before the committee, and should continue there until the remaining depositions shall arrive, and the whole case come on for final hearing on the ultimate rights of the party. They will then be printed in connection with the others, and go to the world as a part of the New Jersey case, and receive that attention which they may be found to deserve.

But it is useless to dwell on this point; for it is evident to every one that the proposition is submitted only for the purpose of furnishing an occasion to assail the conduct of the majority of the committee who made the report, and of the House by whom it was confirmed. Sir, it is now notoriously a question of crimination. Having failed to get in the five claimants commissioned by the Governor, and having further failed in excluding the five who actually received the majority of the votes, gentlemen turn round, in the rage and fury of their disappointment, and seek to criminate the conduct of all those by whom their purposes have been frustrated. Proud in the consciousness of having done right, as one member of the committee, I stood ready to meet any and every charge that might be preferred against me, or any of the honorable gentlemen who had concurred in making this report. I expected those charges, if made at all, would surely be preferred by members of the committee—by those whose situation enabled them to form an opinion worth submitting to the American people. Judge, then, Mr. Speaker, my surprise, when I saw the gentleman from Maryland suddenly thrust himself into this controversy, which I had considered as a sort of “family affair,” and gravely prefer a long list of charges against the majority of the committee. I do not deny the gentleman’s right to do so, nor do I question the sincerity of his declaration, that, in his opinion, there had been something wrong in

the action of the committee. But, sir, I now admonish him in advance not to be too precipitate in his conclusions—his situation has not been favorable to a correct knowledge of the facts; and I pledge myself now here, to the House, and the nation, that he has not preferred one solitary charge that cannot be triumphantly refuted.

The gentleman told us that he had looked into our journals, but was constrained to admit that he had only done so *slightly*. Now, sir, this very admission ought to have suggested to him to have been more sparing in his denunciations. What did the gentleman think he could examine the contents of this huge volume in a single night? That he could comprehend the profound legal learning of the gentleman from New York, the skillful special pleading of the gentleman from Alabama, and the wily tact of him from Virginia, on so slight and so hasty an inspection? The gentleman can have no sort of idea of the profound mysteries of this new and interesting work.

With no better opportunity than this to obtain correct information, the gentleman selected one portion of the journal here, and another there—a fragment from one place, and a scrap from another, and drawing his conclusions from such disjointed premises, proclaims to the country “that there was something wrong in the committee room.” Sir, I expect there was something wrong in that committee room—something wrong in this House—something wrong before the Governor and Privy Council of New Jersey. But I stand here to say, after a full examination of this case, that that wrong is not on the side of those who have maintained the rights of the people of New Jersey against its Governor and Council.

Let it be remembered that no gentleman has ventured to dispute the great and controlling fact which constitutes the sum and substance of this report, to wit: who received the greatest number of votes cast in the New Jersey election. No man has, because no man could deny it. The parties holding the Governor’s commission, so far from denying that their competitors did receive the majority of votes, in their written pleadings have substantially admitted it. They have so plainly admitted it, that the committee need not have called a sin-

gle witness in the case ; they need not have taken a solitary deposition ; but, walking into this hall, might have laid that written admission on your table, and said to you : "Behold the fact which you required us to ascertain!" In one hour after the pleadings of the parties were closed, the committee might have made the report which they have made, and the House have taken the very action they have taken, on the parties' own admission : If it be asked why such a report was not made sooner, under such circumstances, my answer is, that those who are now so much abused as an unjust and overbearing majority, never became a majority until the orders of this House had been given, commanding this report to be made. Until then we were in a minority, incapable of controlling anything. Our propositions were voted down or stricken out, or so altered and amended as to make us finally repudiate them ourselves. This was effected by the chairman generally voting and acting with the other party on all questions involving a report on the state and condition of the poll-books. At length, however, the instructions of the House were given—the chairman yielded obedience to them, and we stood released from that thralldom to which we had been so long subjected.

[Here the morning hour having expired, the House went into Committee of the Whole on the Treasury Note bill.]

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MARCH 18TH.

Mr. Brown of Tennessee resumed. I will now proceed, in continuation of the remarks began on yesterday. I then complained, and yet think I had a right to complain, that the proceedings of the committee had been so harshly and unjustly condemned by the honorable gentleman from Maryland. It did seem to me, that when this controversy had been narrowed down to the mere crimination of the majority whilst in the committee room, that the gentleman should have left it to be

settled by the members of the committee. I advert to this topic again, in order to assure the gentleman that I refer the injustice he has done, which *I know* he has done to the majority, more to the want of personal information than to any disposition to send forth to the world a groundless imputation of our motives and conduct. But I may be mistaken as to the extent of the gentleman's information. He may have learned from others, in whom he confides, much more than he could find out from his necessarily slight and superficial inspection of our journals. However this may be, the gentleman day after day, indulged in a freedom and boldness of crimination, that demands a prompt and decisive refutation. Scattered, as they were, through a very long speech, I feared at one time, that I should not be able to collect and arrange them. But he was kind enough yesterday to recapitulate, and to condense them into a small compass.

His first charge was, that the committee had failed to discharge its duties, as pointed out by the standing rules of the House giving existence to the committee. The rule declares :

“That it shall be the duty of the Committee of Elections to examine and report upon the certificates of election, or other credentials, of members returned to serve in this House.”

Now I desire to know whether the gentleman from Maryland did mean to make the impression on this House, that the committee had not performed that portion of its duty ; that we had not examined the commissions, and decided on them. If these were the gentleman's objections to our proceedings, it was easy to show that he was mistaken.

[Mr. JENIFER here explained.]

If I understand the gentleman's explanations, I have not misapprehended his meaning. I refer him to the resolution under which this case was referred to the committee. That goes beyond the standing rules, and requires us to ascertain and report who were entitled to occupy the five vacant seats from the State of New Jersey. This opened up the whole question : the commissions, the returns, the poll books ; in fact every thing on which the right of membership depended. Now, sir, it has been asserted here, and the public press has spread it all over this country that the committee paid but lit-

tle or no attention to the Governor's commissions; that they were treated with no respect; regarded as amounting to no sort of evidence in the case whatever. This bold and reckless assertion has no doubt gone where no refutation of mine can ever overtake it. But, as far as I am able, I will send the denial after it. I will send the journal, too, so soon as it shall be printed, beneath whose withering rebuke such assertions cannot stand. Every member of that committee must know, and does know, that the credentials occupied a large portion of our attention, and were the subject of anxious and serious consideration. I refer to page 79 of that journal:

"Whereupon Mr. Botts moved the following resolution:

"Resolved, That this committee will now proceed to decide on the legality and validity of the commissions granted by the governor of New Jersey."

It being the first question presented and the whole testimony relating to that branch of the subject having been read. The same fact of these commissions having been read and considered is indelibly engraved on other pages of this book, and leaves no ground for cavil or dispute. I shall have frequent occasion to refer to this book, and I must beg pardon of the gentleman from Virginia in advance, if I should happen to designate it as "Botts' journal." I can hardly open it any where, without coming across his name, standing in bold relief, in *almost perpetual conspicuosity*. Besides this, the gentleman was *admittedly* the chief architect of this large superstructure; I mean the plainer and more substantial (if any be substantial) parts of the work. The ornamental parts were executed by the gentleman from New York and Alabama, with the exception of a little fretwork by the gentleman from Connecticut.

On the authority of this record, then, I aver that the commissions of the Governor were read—that they were considered—were argued at great length by the parties, and a distinct vote taken on their validity and sufficiency. Yet, sir, the country has been told, often told, directly the reverse. The majority of this committee, at this very moment, stand arraigned at the bar of public opinion, for having given to the commissions no attention, and for having treated with silent indifference, if not contempt, the broad seal of one of the old and gallant thirteen

States of the Union. On what evidence have they been arraigned? On none. Bold assertion was substituted for evidence, and reckless invective supplied the place even of probability or presumption. By what evidence is the charge disproved? By this record, and by the personal knowledge of every member of the committee.

The gentleman from Virginia, from the beginning, had entertained the opinion that nothing but the commissions could entitle the gentlemen to their seats. He had avowed and enforced that opinion in an elaborate argument on this floor, before the committee had ever sat upon the case. Was it likely, therefore, that *he would permit* the questions growing out of those commissions to lie neglected and unnoticed before the committee? So far from it, sir, the supremacy of the commissions seemed to fill all his thoughts; it was the beginning and the end of his whole judgment in the case.

Mr. Speaker, I come now to the second charge preferred by the gentleman from Maryland against the majority of the committee. He says that the committee passed a resolution that it would not proceed to determine the question of ultimate right between these parties until the second Monday in April, and that this report is in violation of that resolution. Well, sir, the resolution says that the committee would not decide on the question of *ultimate or final right*, until the time designated. Have we decided on such right? Have we reported on it? Not at all. We have only decided and reported on the right of *present occupancy* of the contested seats, whilst the inquiry as to the ultimate right was going on. The ultimate right depended on the purgation of the polls. In New Jersey the vote is given by general ticket; the whole State would have to be ransacked in search of illegal votes, which would necessarily require much time. The question, therefore, arose who should be the sitting members during the period allowed for collecting this testimony? The report made only covers that point of present occupancy, and has no reference to the ultimate rights of the parties at all. Where, then, is the violation of this resolve of the committee? The gentleman should have spared his reflections on the committee on another ground. He should have remembered that even this

report on the present occupancy of the seats was not made until we received the express and peremptory orders of this House. When these were given, all that was left to us was the simple duty of obedience. Will the gentleman censure us for that? Would he have had us to set up *our own resolves* of a prior date, in open defiance of the resolves and commands of this House? Surely the gentleman could not have matured this objection in his own mind before he preferred it against the committee. But he evidently preferred this only as *inducement* to his third and most objectionable and groundless charge of all. He says that the committee having adopted that resolution and sent off the claimants in search of their testimony, it was a violation of its faith and solemn pledges to have made this report without giving them notice. True, he attempts to draw a distinction in favor of the committee, by regarding it only as accessory, whilst he looks upon the House as the principal in the perpetration of this foul deed of violated faith. Sir, I reject the distinction. If the charge were true, I should consider the magnitude of the offence as constituting all principals concerned in its commission. But, sir, is that charge true? The gentleman preferred it in a tone and manner so excited, that he found it necessary to explain or apologize to the House for it. He illustrated his opinion of the conduct of the committee and the House, by referring to his frequent agreements to *pair off* with members of this House, until a specified time, and declared that he should have considered himself dishonored by a violation of any such pledge or agreement. All this, sir, was reiterated through a speech of several days' length—reporters and letter writers have sent the charges to the public press, and that has distributed them to every portion of this continent. Denunciation and assertion may achieve a temporary triumph over truth and evidence. But it will be only a temporary one. This record shall go forth to the world. It shall follow up these high charges of the gentleman from Maryland, and show to the American people how destitute of foundation they are. I refer to page 127, where it appears that the committee reserved the right to make a preliminary report, whenever they might think proper to do so. To page 129, where a proposition to that effect was made

by Mr. MEDILL. To page 147, where another was made by Mr. FISHER. To page 138, which shows that the parties on both sides were then present, and heard the discussions, and witnessed the action of the committee on the proposition. How, then, can it be said or pretended that they left the city without notice that a preliminary report was contemplated? They knew that the right to make such a report had been always reserved. They knew that every attempt to take away that right had been defeated. They knew that making of such a report would not interfere with their preparations on the question of ultimate right. They knew that they would have to go home to take the balance of their testimony, whether such a report was made or not. They knew all this. I say they knew more. They knew that a resolution instructing the committee to make such a report, had been introduced by Mr. TURNZY of Tennessee, and was then actually pending before the House. These facts are all recorded, and yet it is pretended that they retired to New Jersey in conscious security, confiding in the honor and integrity of the committee, and of this House! They were deceived and taken by surprise! surprise about what? surprised by a report, declaring that their opponents had received a higher number of votes than themselves in the New Jersey election? That was impossible, for they had never denied the fact; they had substantially admitted it. The records of New Jersey demonstrated it beyond all possibility of denial.

Sir, I have no patience for a further exposure of this groundless charge of broken pledges and violated faith. I pass to another charge, equally unmerited and equally unfounded. We are charged with making our report with unjust precipitation, without ever having examined the testimony referred to us by the House. That, in so doing, the committee had practised a fraud on this House, and the nation, who had a right to expect that we had examined all the testimony in the case; others have made the same imputation on the proceedings of the committee, and I will, therefore, appeal again "to the law and the testimony;" to the gentleman's (from Virginia) own book; to that favorite record, which he watched and guarded with more care than all the other members of the

committee beside. The testimony was gone over twice. The first time to read the evidence, to hear the parties on it, and to note down the objections made by them. This may be all seen on the journal, from page 70 to page 89. The second time it was gone over, was for the purpose of deciding on the various points made by the parties, touching the admissibility and competency of the evidence in the case. Our proceedings for this purpose may be seen from page 96 to 126. The testimony was examined under the following resolution :

*"Resolved*, That we will now take up the testimony which has been referred to this committee in the New Jersey case." It was taken up without any limitation or qualified purpose whatsoever. On page 70, we find this entry : " And thereupon the committee proceeded to the hearing of the testimony" and " the certificates of the Governor of New Jersey were read." Again on page 75, " And the following documents being the same that were referred, &c., were severally taken up and read." On page 79, may be found the following entry :

" Mr. Botts moved the following resolution :

*"Resolved*, That this committee will now proceed to decide on the legality and validity of the commissions granted, &c., it being the first question presented, and the whole testimony relating to that branch of the subject having been read."

On page 81: " The paper No. 13, was then taken up ; and page 73 : " And thereupon paper No. 13 was read." This same paper, No. 13, relating to the polls at South Amboy was again taken up and rejected, Mr. Botts only, of all the committee, voting for it. It is further shown by the journals " that their being no further testimony before the committee, Mr. Botts moved the following resolution, &c." The different portions of testimony were designated by numbers, and the record shows in relation to every one of them, " that they were read." In going over the testimony the second time, we heard the parties on the various objections made and noted down the first time, and decided whether each number was admissible or competent testimony. Those depositions which were rejected were laid aside, the parties avowing that they desired and intended to take them over again.

It is on this ground that gentlemen on the other side have fallen into a great error. They have contended that the committee had never heard or considered the testimony, except as

it relates to the question of competency. I have already read to the House the resolution under which it was taken up and considered. It contained no limitation of purpose whatsoever. On the contrary, an attempt was made and strenuously insisted on, that it should be taken up and considered for that purpose only ; but the limitation was stricken out and the inquiry gone into unrestricted. But it seems that its *sufficiency* was never passed upon by the committee in public vote, so as to constitute *a hearing or consideration* of the testimony in reference to the making up of a report. Was such a thing ever heard of in a committee room as an abstract question of sufficiency ? Sufficiency for what ? You could never determine that, until a distinct action on the case was proposed, and then each member would *decide for himself*, whether the testimony was *sufficient* to sustain such a proposition. Look to analogies from the proceedings of our courts of justice. Our Judges and Chancellors decide and pass on all questions of the competency or admissibility of evidence, raised by counsel in the progress of a cause, but you can never learn their opinions on its *sufficiency* until they pronounce their judgment or decree in the case. That judgment or decree will of course be according to their opinions of the sufficiency of the testimony to sustain it ; but no separate or distinct judgment is passed upon it. It is a silent process of the mind, unannounced, and only to be inferred from the nature of the decision made. The verdict of a jury on the issue of guilty or not guilty, evinces the opinion of the jury of the sufficiency or insufficiency of the evidence ; but it is only in the act of rendering that verdict, that a jury could be called on or considered as expressing such opinions. So, sir, of the proceedings of this committee. This testimony having been taken up without restriction—having been heard as competent in the case, would be treasured up in each member's mind until some report or other action on it was called for, and then each would decide (by a silent process of his own mind) for himself, whether the evidence was sufficient to sustain and justify such report or other action. Thus it is, sir, in the face of this analogy from the practice of the courts and against the very reason and nature of the case, gentlemen on the other side have often exclaimed,

Where is the evidence that the *sufficiency* of this testimony was ever examined and decided by the committee? My answer is still given from this record: The vote on the following resolution was a decision on the *sufficiency* of the testimony.

"Mr. Brown introduced the following:

"Resolved, That the report just read be adopted."

The vote on this resolution was a test of every member's opinion of the sufficiency of the evidence; and the first test that could have been applied, without a gross violation of all parliamentary and judicial practice.

[The morning hour having expired, the House went into Committee of the Whole on the Treasury Note bill.]

MARCH 19TH.

Mr. Brown of Tennessee resumed as follows:

At the close of my remarks on yesterday I thought that I had sufficiently refuted the charge preferred against us of not having examined the evidence referred to us by this House. The gentleman from Maryland now informs me that his chief complaint was and yet is that we did not open and examine the depositions now generally known "as the mysterious package." I thank the gentleman for any suggestion calculated to abbreviate our defence and explanations of this report. I think I can satisfy any candid and impartial mind, that said package was never before the committee; that it was never there as evidence; never there in any form or manner, so as to enable us to act on its contents. I remember well when it made its first appearance in the committee room: it was on the day when the committee assembled for the purpose of receiving the report which the chairman had been directed to prepare, in obedience to the orders of the House. We had assembled for that special and only purpose. True, we might

have met there at any rate. We had met there so often, that it is very likely that the mere force of habit might have taken us there again. However this may be, when we were assembled, it was not for the purpose of re-opening the case, or of taking any new order in it, but simply to ascertain whether the chairman had prepared the report, agreeably to the directions of the committee, given on the Saturday previous. When so assembled, and for such purpose only, this mysterious package made its appearance. It was brought there by the gentleman from Connecticut. It was laid by him on the table at which the chairman was sitting. After permitting it to lie there for some time, the gentleman said something that called the attention of the chairman to it. It was found to be a sealed package, directed to the Speaker of the House, but to the care of the chairman of the committee, and endorsed, "Deposits in the New Jersey case." Mr. SMITH, moved, informally, (not being in writing,) that the chairman should open the package. He replied that the package was not directed to him, but to the Speaker, and he did not feel at liberty to break open its seals, but it being directed to his care, he would deliver it to the Speaker as soon as his convenience would admit of it. The motion, or proposition, not being in writing, no vote of the committee was taken on it. The chairman then read his report, and I moved that it should be adopted; and pending that motion, the gentleman from Connecticut moved that the package should be sent to the Speaker, to be by him opened, and an order of reference be obtained from the House. During all this time, our proceedings were to stand suspended. It might be several days before the order could be obtained from the House, and if debate happened to spring upon it, which was very probable, it might even be weeks before it was obtained; and the instructions of the House to us, to make a report *forthwith*, to be entirely disregarded. The committee refused to submit to any further delays; they confirmed the report, and ordered it to be submitted to the House. It is for this they have been so often and so severely censured by gentlemen in the course of this debate. It is now said that if the committee had examined this package, it would have established a number of *illegal votes* sufficient to have prevented at

least one of these gentlemen from being admitted to his seat. Sir, who ever pretended that this package related to *illegal votes*, until we heard it in debate? Did the gentleman from Connecticut, who presented it, say that it related to *illegal votes*? Did he ever once hint such an idea before the committee? Not at all. *There*, we were told on the face of his own resolution, that it related to the manner of holding the poll at South Amboy; here we are informed that it related to the reception of *illegal votes*. Why this strange discrepancy between the information given then, and the complaints made now? Sir, I think I can tell you why.

On the question as to the manner of holding the South Amboy polls, gentlemen do not desire to make too prominent an issue. These objections stand on too narrow and technical a foundation. They therefore fly off in pursuit of a new idea—a mere after-thought—which either never occurred to themselves, or was suppressed by them at the time this decision was made. Let it be remembered, Mr. Speaker, that this sealed package was no part of the old testimony. It had been recently taken, whilst both parties were engaged in taking testimony in New Jersey. They had been allowed until the second Monday in April for that purpose. When that time should expire, they were expected to return to this city, bringing with them the depositions which they had taken. Now, sir, why was it that this particular deposition had strayed off from the others, and been hurried to this city by itself? Why had it not been sent to the Speaker of the House, to whom it was directed, and as it is expressly required to be by the laws of New Jersey. I have those laws now before me, and they expressly require that they should have been sent to the Speaker. It was not sent by the public mail. When and by whom it had been sealed did not appear, and there were no endorsements to guard its alteration. What is required generally in our courts of law and equity in similar cases? The commissioner must certify that the deposition was sealed up without having been out of his possession, and without alteration. If sent by private conveyance the person conveying it must certify on oath that he received it from the commissioner, and that the same has been unaltered whilst in his possession.

The committee did not require all these things to be complied with. Indeed, they considered that they had nothing to do with all these precautions, because the House, it was to be supposed, would guard all these points before they opened and referred all such papers to the committee. But, sir many of the committee did look with *suspicion* on this package. It had not come through accustomed channels, and it might be to avoid the necessary scrutiny, that it had sought to come into the committee, through channels unknown to the laws of New Jersey, and unsanctioned by parliamentary practice.

I am free, however, to state, that I never permitted these suspicions to fasten on the gentleman from Connecticut personally, for having brought them from his lodging to the committee room for delivery to the chairman, to whose care they were directed. But, sir, they did fasten on the package itself —on its abrupt and precipitate transmission to this city, in advance of all the other depositions, either then or in the course of being taken in the State of New Jersey. These suspicious circumstances, as I regard them, no doubt influenced my mind to some degree, in refusing to suspend our obedience to the orders of the House, and to await the opening and reference of the package. But I put that refusal on still higher ground. I maintain that that package was never before us in such condition as to allow official action. It was never before us as a committee. Nothing could be properly so, but what had been sent *through* the House *and by* the House. We had, therefore, no right to take action on the paper. That action depended solely on the chairman, into whose hands it came, which the committee had no right to accelerate or retard, by any order on the subject. The gentleman from Maryland, however, assumes the ground that the chairman *had the right* to break the seal, and to open the package, without presentation to the Speaker or any order of the House. The Speaker, however, was of a different opinion. Every member of the committee present thought differently, except the gentlemen from New York and Connecticut. The gentleman from Alabama has no recollection of hearing the proposition made, that the chairman should open it; but, at the same time, he tells you if he

had heard it, he would not have sanctioned the idea for one moment.

[Mr. CRABB here rose and submitted some remarks of explanation.]

Mr. BROWN was glad that the gentleman from Alabama had submitted his remarks: he wanted his position to be perfectly understood, for it was one on which he did not intend to bestow the slightest censure.

On the question of sending this package to the Speaker, and waiting for its reference and return, only two of the minority present voted for it, the gentleman from Alabama not being one of them.

[Mr. CRABB again explained, and said that his vote against sending it, was owing to certain recitals on the resolution of the gentleman from Connecticut, which he did not think correct in point of fact.]

Mr. BROWN then read the resolution, and the vote taken on it, and said that he meant to furnish the House with the precise facts as they had existed, but did not doubt the motive which the gentleman had stated, controlled his vote on that occasion.

Mr. Speaker, I have been much astonished at the opinions which the gentlemen from Maryland advanced on this part of the case. I understand he is a distinguished member of the bar, and it is with extreme reluctance that I would undertake to question any of his legal opinions. Still I beg leave to submit to him a few, very few, cases for his solution. Suppose an ordinary letter to be directed to A. B. to the care of C. D.; or suppose a letter to be written to the president of the Bank of Maryland, to the care of E. F., one of its stockholders or directors; or to the clerk and master in chancery at A., to the care of the sheriff attendant on the court. Now does the gentleman mean to advance the opinion, that in all these cases, the persons to whose care they were directed could lawfully break the seals, and publish their contents? The gentleman's argument seemed to affirm that they could, and opens up to my mind new principles of law, which have heretofore eluded my research.

I put to the gentleman, in becoming deference, another question; whether, if he be right on the *general principles* of the

science, he may not possibly be mistaken in his opinions on this point, under the special provisions of the law of New Jersey. That law, as I have before remarked, *expressly* requires these depositions to be addressed and forwarded to the Speaker of the House of Representatives. How comes it, then, that any one else can interrupt them—stop their progress towards the Speaker, to whom they are required to go—break open the seals, make use of their contents, and still invoke the law to sanctify and approve the deed? Sir, all this may be so, but I must be permitted to say that it challenges a very high order of credulity to believe it. At all events, the committee did not understand either the general law or the statute of New Jersey in that way. They found this package not in your hands, but in the hands of the gentleman from Connecticut; not on your table, but on theirs; not coming direct by the public mail, but wandering about first in one man's hands, and then in another's, covered by another envelope, which is torn away from it; and having, in fact, none of those safeguards which the law throws around depositions in analogous cases. Under these circumstances, the committee determined to have nothing to do with the package for the present, but to let it reach its ultimate destination, the Speaker's hands, by him to be laid before the House, and by the House be referred to the committee, in due and regular form. It is now before us, and will take its place with the other depositions; will be considered when they are considered; and be allowed its due weight in the final report.

Thus far, Mr. Speaker, most of what I have said has been in justification of the conduct of the committee. I wish now to say something in vindication of the action of the House in requiring this report to be made. The very terms of the resolution referring this case to the committee, show that it was the intention of the House not to leave New Jersey long without her full representation on this floor. Present occupancy of her vacant seats until the final rights of the parties could be ascertained, was evidently intended. It was expected that a report on the present right could have been made in a few days, or weeks, at farthest. This right depended either on the commissions or the poll books, which, it was thought by the House,

could soon be determined. The final right depended on the purgation of the polls in all the townships of the State; and it was known that it would take much time and trouble to perform it. These were the known views of the House. Well, sir, the case had been before us for about two months, instead of as many weeks. Questions of great importance to the country were daily arising, and New Jersey stood deprived of her full number of Representatives in this hall. The Governor of that State seized on the occasion to appeal to the other States of the Union. The impression was spreading far and wide, that too much delay was taking place in the investigation. During all this time, not one word was heard from the committee. True, we were seen repairing early and retiring late from the scene of our labors. Night after night the burning lamps of our committee room attested our industry and devotion to business; but still no signs or tokens of a report being made could be discovered. Almost every member was asking us when? The vacant and unoccupied seats of New Jersey as we passed seemed ready to ask us when? The country at large was loudly addressing to us the same question. But still no solitary response could be obtained. Even now that we have reported, I can often detect a sort of inquisitive curiosity to know what we have been about during all this time. I will tell you, sir. We have been making this great book—I beg pardon for having almost said “Bott’s book”—on the commissions of the Governor; on the records of his proceedings; in making a computation of the votes on the certificate of the Secretary of State, and the written pleadings of the party. We could and ought to have made this report in one-fourth part of that time, which we have wasted on technical trifles, and in a poor, miserable, and (as I fear the country will say) contemptible system of special pleading.

It was after such delays as this, and in the midst of the universal complaint of that delay which I have mentioned, that my honorable colleague, Mr. CAVE JOHNSON, submitted his resolution of instructions to report forthwith who received the greatest number of votes at the election of New Jersey, and all the evidence appertaining to that fact. Sir, I shall never forget the sensations evidently produced on a portion of the

committee by the introduction of that resolution. The pride of the gentleman from Alabama, and of the gentleman from New York revolted at the word "forthwith!" They revolted at the very idea of instant compulsion. The gentleman from Connecticut did not care so much about the word "forthwith;" but seemed to shrink with horror from the intrusion of the chairman of *Military Affairs!* In touching and eloquent strains, he implored protection from that man of war "with glittering helmet, and with nodding plume!" That whole debate went off on a collateral and false issue, and was evidently intended to direct the public mind away from the true merits of the proposition. It was said to be indelicate, and even insulting to the committee, to call on them for a report, which the House and the country had been expecting for many weeks, with breathless anxiety! The House was, however, resolved to wait no longer, and after amending, adopted the resolution. This amendment consisted in the insertion of the word "lawful," before the word "votes." It was proposed by the gentleman from New York, [Mr. FILLMORE,] who was in full practice on similar motions in the committee room. There, whenever it was proposed to ascertain "who received the greatest number of votes polled at the New Jersey election," so as to be able to report that fact to the House, the gentleman, or some other member of the minority, would move to insert the word lawful, so as to throw us off from the poll books as they stood at the close of the election, into the purgation of the polls. They stood on the commissions as the foundation of right to a seat. We stood on the poll books that contradicted the commissions, and clearly showed that five other persons received the votes of the majority. Now, sir, the fair mode of proceeding would have been to take a vote on the validity and sufficiency of the commissions, and if the majority of the committee of the House was found in favor of Messrs. Ayerigg and Co. to place them in their seats; and if no such majority was found, then, to have taken a vote on the validity and sufficiency of the poll books, and to have placed Messrs. Dickerson, Vroom, etc., in their seats, if a majority was found in their favor, I repeat, sir, would have been the fair, plainsailing mode of proceeding. But it has been denied to us throughout this whole proceeding.

We have been, from time to time, forced off from an examination and report on the poll books, showing in fact who were elected by the people, and compelled to report on *presumptions*, instead of *facts*, or give the commissioned gentleman another chance, by searching over the State of New Jersey for illegal votes. Sir, the motion made here was a part of the same system. But the gentleman did not remember that the word *lawful* could have none of its magic influence on this resolution, where there were so many other expressions to command and control it. We were ordered to report *forthwith*, but not so as to stop or delay our investigations into the ballot box. So long as these expressions continued in the resolutions of instruction, the word *lawful* could be made to apply only to those votes cast in the election, which the law and the rules of evidence declare *lawful*, until the contrary be shown by evidence. In his zeal and precipancy, and mislead by the effect of the same word in dissimilar propositions in the committee room, the gentleman from New York failed to follow up his motion to insert the word *lawful*, by other motions to strike out the word *forthwith*; and the whole proviso at the close of the resolution. This failure was fatal to his object. It lost every advantage which he was seeking to acquire. The gentleman and his friends soon perceived it, when they found the whole Democratic party of the House still voting for the instructions, notwithstanding the insertion of that word. Thereupon the whole Whig party, with no remembered exception, voted against it, in the face of their own favorite word "*lawful*." This, sir, is the resolution, as finally adopted:

"*Resolved*, That the Committee of Elections be authorized to report to this House such papers and such of their proceedings as they may desire to have printed by order of the House and that they be instructed also to report forthwith which five of the ten individuals claiming seats from the State of New Jersey, received the greatest number of *lawful* votes from the whole State for Representatives in the Congress of the United States, at the election of 1838 in said State, with all the evidence of that fact in their possession: *Provided*, That nothing herein contained shall be so construed as to prevent or delay the action of said committee in taking testimony, and deciding the said case on the merits of the election."

The gentleman from Maryland, as the minority of the committee, have complained much of the construction which was

given to this resolution by the majority. They have industriously sought to make the impression that it was resolved to put Messrs. DICKINSON and Vroom and their associates into their seats, right or wrong, on legal or illegal votes. Sir, nothing can be further from the truth. We have not counted one single vote for them which has not been passed upon and decided to be legal by the constituted authorities of New Jersey, the judges and inspectors of elections. They have solemnly adjudged every vote to be *lawful* before we have allowed it. The law takes *their judgment* as binding, until the country shall be shown by evidence taken in the case. Not only did the majority decide that *the votes received* should be presumed and taken as *lawful* votes, but every member of the minority decided so with us. They voted without exception for the following resolution :

*"Resolved*, That all votes received by authorized officers acting in conformity with the laws, are *prima facie* legal."

Now, sir, we have not counted one solitary vote which was not of that description. To escape from this, we are told on the other side that the word "lawful" was not used by the House in this *prima facie* or presumptive sense, but referred to the final and absolute lawfulness which might be established by the evidence. Sir, how can this be so, when the House knew that the testimony had not yet been taken—when the House knew that the parties had just left the city for the purpose of taking it—when the House knew that two months had been allowed them for that purpose? How then could they have meant to call for a report to be made forthwith, on testimony not in existence, and which would not be in our possession before the second Monday of April next. They must have meant that we should report without delay on the lawful votes, as they stood as such on the records of New Jersey and the testimony before the committee—on the votes which *then* stood as lawful, according to the laws of New Jersey, and not on the votes which might *hereafter* be found legal when the taking of the testimony was completed. The House was demanding the report only to settle the right of present occupancy, as to put one party or the other in their seats, until the final right should

be determined. They therefore called for a report on the evidence *as it then stood*, not on the evidence as it might hereafter appear. This is put beyond all question by the proviso which expressly declares that the inquiry into the merits of the election should not be suspended or prevented.

The next day the committee met. They settled down on the construction of the resolution for which I have contended, and ordered the report to be prepared by the Tuesday following (that being Saturday.) On Tuesday the report, as prepared by the chairman, was adopted and ordered to be presented to the House. It was presented, resisted, debated; but was finally confirmed, and five of the claimants admitted to their seats by an overwhelming majority. I again affirm that every vote counted in making out that report, stood, at the time it was counted, as a good and lawful vote, according to the rules of evidence and the laws of the land. But it is true, that in making out the report the committee did not, and could not, know but what some of the votes counted *might* hereafter be proved to be illegal *when* the parties returned, on the 2d Monday in April, from taking their testimony in New Jersey. We were not gifted with the spirit of prophecy so as to know how that might be, and the House called for present and immediate action, and did not choose to wait the developments *of the future*. But whatever doubt might have existed before as to the correctness of our construction of its orders, they must be removed by the subsequent action of the House. When the report came, it was resisted on the express ground that we had misconstrued the resolution of instruction. The question was debated and considered by the House. Surely the gentlemen do not mean to deny that the House *understood* its own orders. Well, what was its decision? It sanctioned our construction by confirming our report. Before the House we were charged with stupidity and mental delusion; now nothing can save the House itself from the same unmerited denunciation. What, sir, after all, have we done? Nothing but what the Governor of New Jersey himself declared we ought and should do. Hear his declarations, made at the time when he was cleaving down the rights of his own people. "But it will be asked, with force and propriety, is a candidate to lose his seat in Congress

because a country clerk does not make a return of the votes? Certainly not. If, through inadvertance or by design, any votes have not been returned by the clerk, it is in the power of the House of Representatives, in their discretion, to allow these votes, and give the seat to the person who, with these votes, may be elected." Well, what have we done? The votes of Millville and South Amboy had not been returned, or rather had *not* been counted. The committee and the House have counted them, and have given the seats accordingly. Precisely what Governor Pennington then said we ought and would do. Let me tell gentlemen we have not only done this, but we have done more. We have done what Governor Pennington ought then to have done, but which he did not and would not do. He knew that the clerks of Middlesex and Amboy had not sent up all the returns of all the townships of their respective counties, and yet he would not send an express after them as the law directed. He knew that the votes of Millville and South Amboy had not been included in their computations, and if included would have changed the result. He knew, in other words, that Messrs. Aycrigg & Co. had not received "the highest number of votes" as required by the laws of New Jersey, yet he gave them commissions at declaring them "to have been elected," contrary to the truth of the case and the laws of the State. In the commissions which he gave, he could not and dare not say, that those to whom they had been given, had received the highest number of votes. He therefore introduced the word "elected," not known in the laws of New Jersey. Who is "elected," is a compound, and often a difficult question to be determined, and is left under the Constitution in such a case, as this, to be decided by the House of Representatives: But "who received the highest number of votes" in an election, is a simple matter of arithmetical computation, and has been entrusted to the Executive of New Jersey as the returning officer. He has made a return, at open war with the facts of the case, and has only offered to an insulted people the poor consolation that the outrage he was committing was within the correcting powers of this House. We have corrected them. We have restored to the people of New Jersey the great and fundamental right of self-

very high—some 4 per cent.—some 16—some 46—some 19, &c., according to qualities and descriptions. Would Mr. Foster or his party assist us? No, neither he nor they would do so. His next article is sugar. The whigs taxed that 66 per cent.—we tried to reduce that 14 per cent., and Mr. Foster and his party would not assist us even in doing that much. Mr. Foster merely adds “almost every article we use or consume”—none of which, now recollect, would he then or now consent to reduce! And yet we are told the whig party now stand where they have always stood! I know well what Mr. Foster will say to this also. He will say General Jackson changed from the time he wrote his Coleman letter. I do not think my competitor (said Mr. Brown) ever understood that letter; but granting, for argument sake, that General Jackson did undergo some change from 1824 to 1832, did he not change with him and stand by him on the same platform with Judge White, Mr. Bell, and all the rest of the Whig party? I have proven that he did; and so it follows if General Jackson changed once, (which I do not admit) Mr. Foster and his party have changed twice to his once. Will he put up with this poor consolation? He may say others have changed. We are not talking about others—I have nothing to do with others in this contest; I have only to do with the embodiment of the whig party in Tennessee; and if he and they have changed, my proof is full and this issue is settled. I care not what he says about Martin Luther, the Pope of Rome granting absolution to the Irishman for a stack of hay which he *intended* to steal but had not yet stolen. I care nothing for all such things. I hold this contested issue to be settled by the proofs, and that neither the whig party nor their standard bearer can sustain that claim to consistency in politics which they have challenged the democracy to refute.

Mr. Foster talks much about the home market. Mr. Bell long since overturned all he says on that subject. Does he not see likewise that in trying to build up a home market in the north, by a high tariff which cripples the south and forces them to raise their own provisions, that he strikes down and destroys a home market five times as good to us as the northern one can be? He talks of shutting up the fac-

a stern reality, which might have moved the hardest heart. Why did he not draw you the picture of some weeping widow—shivering in her hovel, with her half starved and half naked orphans around her. Who is she? She is the widow of one of those American citizens, mentioned by Gen. Taylor and Mr. Allen A. Hall, who had been first plundered of all that he had in the world, then imprisoned without cause in the mines of Mexico, until exposed in the cold damp vaults, far from his wife and children, who are now left without a home or a shelter, to live on the cold and doubtful charities of the world. Here is a picture from real life, and I call on you to join me in denouncing that Mexican injustice and tyranny that struck so foul a blow on one of our countrymen.

But (continued Gov. Brown,) I have not done with the testimony of Mr. Hall yet. He says expressly "that Mexico had pursued a course to the United States which rendered it *imperative* on the latter to force her to a settlement of the grave difficulties existing between the two countries," and challenges any man of any party to maintain to the contrary. Yes, Mr. Hall *challenges any man of any party*; as much as to say to my competitor, "I don't care if you are the *candidate* of the whig party, I am the *Editor* of the whig party and I challenge *eyen you* to controvert my position." But my competitor has taken up the challenge and they may fight it out lustily between themselves.

But my competitor may ask, was this war commenced by us for this indemnity of six millions? I answer that we did not *commence* it all. Mexico *commenced* it by an invasion for the reconquest of Texas, and we have *carried it on* "for indemnity for the past and security for the future." So the question still recurs, *is it not just* to have carried it on for these purposes? After the battles of the 8th and 9th on the Rio Grande, our country was relieved, it is true, from invasion for the present, but no one could tell how soon it might occur again. Mexico refused to negotiate at all, or even hold any sort of diplomatic intercourse with us, and might dash her armies back upon us at any moment she might please. We were therefore bound to carry on the war *first commenced* by her until safe and honorable peace could be extorted from her,

securing us against future invasion, and extorting from her that indemnity which she herself had often acknowledged to be justly due to our people. So much then for the *justice* of this war.

Gov. Brown further maintained that it is a war of *self-defence against invasion*, and could not, therefore, have been avoided without dishonor. Mexico (said the Gov.) *declared* this war first; Gen. Taylor tells you she did. She not only declared it first, but she *commenced* it first; she crossed the Rio Grande in the night time, and made the attack on Thornton's detachment, killing some and taking others prisoners. This was the first blood shed in this war. What next? The next day they way-laid General Taylor on the road-side, when he was passing from one encampment to another, and made an attack upon his army, and the battle of Palo Alto was fought. This was the second time that the blood of your countrymen flowed in this war. What next? The next day he was assailed by the Mexican army on the same march to his upper encampment, and the battle of Resaca de la Palma was fought, which was the third time that the blood of your countrymen was made to flow like water in this war. Congress heard the news. The President recommended a declaration of war. It was declared, with only fourteen dissenting voices. The nation flew to arms, and more than 200,000 of our countrymen offered to volunteer to drive the insolent invader from our soil.

And now, (said the Governor,) my competitor every day makes an argument to prove that this march over the Rio Grande and these attacks on our army *were not an invasion of our country*. I maintain that they were, and will now furnish him with proof that he never will be able to overturn. When Congress heard the news that the river had been crossed and our army attacked, they voted ten millions of dollars and 50,000 volunteers, and directed the President "to prosecute said war to a speedy and successful termination." Mr. Crittenden moved to strike out these words and to insert the following: "to repel invasion, and otherwise prosecute hostilities until the country be secured from the danger of *further invasion*;" and Crittenden, and Corwin, and Barrow, and Berrien, and indeed

every whig Senator present, voted for them ! So by the vote of the whole whig party in the Senate, when the Rio Grande was passed, our country was invaded. Let this record be transcribed on your memories ; for as long as that journal exists, so long must it prove that my competitor is wrong—wrong in saying that Mexico extended to the Neuces—wrong in saying that Texas did not extend to the Rio Grande. Crittenden says he is wrong ; Berrien, and Archer, and Barrow, and all his whig friends in the Senate, declare that he is wrong. Besides these, his friends, Mr. Adams, and Clay, and Webster, have all stated that Texas did extend to the Rio Grande. Mr. Jefferson, and Mr. Madison, and Monroe, and Jackson, all held the same thing ; and the only authority relied on by my competitor is Mr. Senator Benton, in his speech on the Tyler treaty. Mr. Benton, in that speech was evidently alluding to the *upper Rio Grande*, not the lower part, on which the army was marched. Judge Breese, a Senator from Illinois, making a speech, as I understand, in Mr. Benton's presence, drew this distinction in reference to Mr. Benton's speech, between the upper and lower Rio Grande, without correction by that Senator. With that distinction Mr. Benton would be right—without it he would be wrong, and the only man of distinction in all America who, to my knowledge, holds a different doctrine. My competitor should remember that Mr. Benton was speaking against the boundary of the Tyler treaty, when annexation was *rejected*. It was afterward accomplished, under resolution for which Mr. Benton voted, and to which he made what he considered an important amendment. Now, if his opinions were such as my competitor ascribes to him, how could he have finally voted for annexation as he did ?

But I proceed, said Gov. Brown, to give some further evidences that Texas as annexed to the United States did extend to the Rio Grande. 1st. I rely on old maps showing that river to have been the boundary of Louisiana. 2d. On old histories referred to by our negotiators in relation to this fact. 3d. That after the battle of San Jacinto, the whole Mexican army was ordered out of Texas, *and over the Rio Grande*, and never did return, and make any reconquest of any portion of the country on the east side of that river. Now why did Texas

establish her independence up to the Colorado? Only because she drove her enemies over that river. Why up to the Nueces? Only because she drove her enemies over that river. Why up to the Rio Grande? Only because she drove them over the Rio Grande. Why no further than that river? Because she drove them no further. I rely not on the *treaty* made with Santa Anna, when a prisoner. That *might* possibly be void, but I rely on the *fact* that the Mexican troops did *actually withdraw* from the country, clear over the Rio Grande river, and never after successfully re-invaded it. 4th. That when Gen. Wool, (the Mexican General of that name) was about to invade Texas, the year before annexation was accomplished, he issued a proclamation clearly indicating where Mexico considered the boundary of Texas to be. His work of death and destruction was to begin, the moment he passed one league on this side of the Rio Grande—one league on this side, and every living soul that he might meet with was to be treated as Texan rebel. But why not those who lived on the river and *within* one league? Because he knew that those persons were mere temporary occupants of huts, near the river for purposes of fishing, or in some way concerned in the navigation of that river. Such temporary occupants, he knew to be *Mexicans in fact although living in Texas*, and therefore spared them in his bloody decree.

I have, said Gov. Brown, one other Mexican authority, which I will now present to my competitor. After the battle of Buena Vista an American officer had occasion to be sent to Santa Anna's quarters, and something was said about Gen. Taylor's desire for peace. His reply should forever engrave itself on the memory of my competitor, "we can never say anything of peace whilst the Americans are *on this side of the Bravo.*" Not whilst the Americans are on this side of the Nueces—no, no, whilst they are on this side of the *Bravo*. Will my competitor out Herod Herod? Will he beat Santa Anna himself, in surrendering more of his own country than Santa Anna is willing to claim! But he insists that several of the Mexican States had been extended in modern times over the Rio Grande, as far as the Nueces. Well, and suppose for the sake of argument only, that they had been. In 1835

the States had been all consolidated by the usurpations of Santa Anna; and when Texas was invaded she drove her enemies back, and drove them back, as I have already shown, to the Rio Grande, and so obliterated the boundaries of so much of Tamaulipas as ever projected on this side of that river. By revolution as to part and by conquest if you please of the balance, the whole republic from the Sabine to the Rio Grande became free and independent.

That republic by her *constitution* claimed up to the Rio Grande—she laid off counties up to the Rio Grande. The county of San Patricio, in which Corpus Christi is situated, extends from the Nueces to the Rio Grande, and up the latter river more than one hundred miles. That county votes, I understand, about one hundred and forty or one hundred and eighty votes, and within that county resides one of the present members of the American Congress. In this very disputed territory! How came he to be recognized as a member, if the United States did not extend to the Rio Grande? We may well imagine how your Congress would be startled by the claim of a *Mexican*, to a seat in the American Congress. His credentials are presented, his residence in the county of San Patricio, in the very territory now in dispute, is avowed, and yet the whole house hails him as a true and lawful member of that illustrious body. Is this no recognition of boundary to that river, by the Congress of the United States? However this may be, I will give another directly and unequivocally on the point; previously to the march of our army to the Rio Grande, Congress had declared that disputed territory a collection district, by establishing a custom house at Corpus Christi, *west* of the Nueces, and appointed a proper officer to discharge the duties of the station. *Here is direct, positive and undeniable evidence that Congress, our Congress, recognized Texas as a State, west of the Nueces.* But how far west of the Nueces? Certainly far enough to take in the town of Corpus Christi. But no farther? Yes as far west as our population extended in the county of San Patricio. How far was that? The answer of to day, will not be the answer of to morrow, for settlers are widening out and settling north and west, in that county, every day, and is it possible, that we have no more fixed and certain boundary

up to which the President can extend the protection of our arms than this! And yet so runs the argument of my competitor—on, Texas, settled, populated Texas, now goes far west of the Nueces—her counties have gone clear to the Rio Grande river, her land officers have gone there, her judicial districts have gone there, and her judges take jurisdiction over persons and property there; up to that boundary, the President was bound by law, by his oath, by the constitution to extend the protection of your armies.

Gov. Brown said, that the point on which his competitor had lately dwelt with the greatest emphasis, was, that “the war was brought on by James K. Polk, in ordering the army to be marched to the Rio Grande,” “that whether that river were the proper boundary or not, it was left, in the resolution of annexation, *an open boundary*, and Congress alone, and not the President, could say where the boundary was.”

To all this Gov. Brown replied, that his competitor had maintained this long enough, others had maintained it long enough, and that it was now high time to stop it. “I maintain,” said Governor Brown, “that *this western boundary was not left open at all*—not open for a moment—that it was closed up forever—closed as to Texas; closed as to the United States, closed as to the whole world, but only *liable* to be opened at some future time, if any foreign government should choose to open it.” He repeated, “closed now against the whole world, but only *liable* to be opened and settled if Mexico should desire it.” He then read the resolution of annexation, thus: “Congress doth consent that the territory properly included within and rightfully belonging to the Republic of Texas, may be erected into a new State,” &c.; “said State to be formed subject to the adjustment of this Government of all questions of boundary *that may arise* with other Governments.” These are the words—“*that may arise*”—may *hereafter* of course. But of course if no such question should ever arise, Texas stands in the Union, fully in the Union, a part of the United States, to be defended from invasion like all other States, no further action of Congress being at all necessary in relation to her boundary. With what boundary was Tennessee admitted into the Union? With that mentioned in her

constitution. With what boundaries were Iowa and Wisconsin admitted? That mentioned in their constitutions. So Texas was admitted, with the boundary mentioned in her constitution; but if or provided any question of boundary should be raised by any other Government, then and not till then, could the boundary be opened for further settlement. Now had any Government, up to this time, attempted or desired to open the question of the western boundary of Texas? None whatever. We thought Mexico *might* wish to open it, and sent a minister there for the purpose; but she drove him away, saying she had no question of boundary to open—she was aiming, to reconquer Texas, not to the Nueces, but *the whole* of Texas, even to the Sabine. Well, we sent him again; he was driven off, and again the cry was, "the whole of Texas or none."

Now with this plain statement of facts, who can contend that the boundary of Texas was left open for the future action of Congress? Look to the absurdity and cruelty of such an argument. The President sends our army to the Sabine. There Gen. Taylor takes his position, and he and his brave army look over to the west. They see the Mexican army pass over the Rio Grande and invade Texas. Can't we fight them now? "No," says my competitor's argument, "the western boundary is open and unsettled." But look! they cross the Nueces! Can't we fight them now? "No," says my competitor's argument, "the western boundary is open." But look! they have crossed the Colorado! the towns are all on fire! The Texan people are fleeing before them! Can't we fight them now? "No, not yet," says my competitor's argument, "the western boundary is open!" But look! yonder are the Mexican lancers, striking down and piercing through the poor decrepid old men, unable to flee from them, and yonder the licentious Mexican is laying his rude hands on the shrieking female—we almost hear their screams under the outrage—O! can we not fight them now? "No, no," says my competitor's argument, "not yet, not yet; *the western boundary is open!*" Good God! have reason and justice and humanity fled the earth, that such doctrines are maintained among an enlightened people?

Such must be the consequences at least of my competitor's arguments on this point.

And now (said Gov. Brown) I come to ask the question, *who advised the march of our army to the Rio Grande?* GENERAL TAYLOR HIMSELF! In his letter of the 4th October, 1845, he says: "For these reasons, our position thus far has, I think been the best possible. But now that the entire force will soon be concentrated, it may well be questioned whether the views of Government will be best carried out by our remaining at this point. It is with great deference that I make any suggestion on topics that may become matter of delicate negotiation, but if our Government, in settling the question of boundary makes the line of the Rio Grande an ultimatum, I cannot doubt that the settlement will be greatly facilitated and hastened by our taking possession at once of one or two suitable points on or quite near that river. Our strength and state of preparation should be displayed in a manner not to be mistaken. However salutary may be the effect produced upon the border people by our presence *here* (Corpus Christi,) we are too far from the frontier to impress the government of Mexico with our readiness to vindicate by force of arms, if necessary, our title to the Rio Grande. \* \* \* Our advance to the Rio Grande will itself produce a powerful effect, and it may be that the common navigation of the river will not be disputed."

Here you see (said Gov. Brown) he advised the march as well calculated not to provoke war, but to preserve peace. He advised it as necessary and proper to vindicate our title to that river and to secure its joint navigation. He advised as an able General and a wise statesman. The President followed it, and now the strange spectacle is presented, that Taylor, who gave the advice, is to be exalted to the Presidency, whilst the President, who followed it, is to be pulled down with dis-honor from it. It is no answer to say that Taylor only advised it in the event that the *Government*, in settling the boundary, should make the Rio Grande an ultimatum; for I have shown that the *Government* had so settled and negotiated the boundary—in other words, that *Congress* had so settled it. Settled it by receiving a member residing in the disputed territory—settled it by having been notified for more than a year that the American army had been located in the disputed territory. Such information had been reported to Congress, and

was lying upon the table of every member of that body from day to day for months together, without complaint and without objection. If then the *Government*, and not the President, had the settlement of that question, the government *had* settled it, repeatedly and conclusively settled it.

In the face of these recorded and undeniable facts, my competitor still insists that the march to the Rio Grande was the cause of the war, and cites Mr. Calhoun as his authority. Mr. Calhoun did say so, in one of his speeches, but I have shown my competitor several times that he was corrected the very next morning by the publication of Marks' letter. Marks was not authorized by Gen. Arista to communicate any thing to Gen. Taylor. He was acting on his own individual opinions and responsibility.

So much for Mr. Calhoun's authority.

What are the opinions of Mr. Benton, my competitor's favorite witness as to boundary, as to the march of the army to that river? "In saying this, I do not consider the march to the Rio Grande, to have been the cause of the war, any more than I consider the British march on Concord and Lexington, to have been the cause of American revolution, or the crossing of the Rubicon by Cæsar to have been the cause of the civil war in Rome. The march to the Rio Grande, brought on the *collision of arms*, but so far from being the cause of the war, it was itself the effect of these causes." This authority of his favorite witness, throws my competitor back on the position, that after all, the annexation of Texas was the true cause of this Mexican war. In assuming this position, his competitor differed with all his whig friends from Tennessee, and with Messrs. Ewing, Gentry, Crozier, and Milton Brown in particular. Gov. B. read from the speech of the latter gentleman, declaring "that he took issue with any one who assumed that position." How his competitor would settle that issue, so boldly tendered by Mr. M. Brown, when he reached the Western District, he did not pretend to know; but he was willing to take it, that annexation was the cause of the war, and would now demand of his competitor why he and his party friends of this State had annexed her? When John Tyler first proposed it, they rejected it—they voted down his treaty and said

the right time had not arrived for its consummation. The following winter, they came forward and declared that the right time had then come, and Mr. Milton Brown and Senator Foster offered resolutions in their respective houses for the consummation of that great measure. In the House of Representatives, every whig from this State finally voted for them. Mr. Brown wrote to Gov. Jones that his proposition was "an *original whig proposition*, and received only a *reluctant support* from the democrats." He wrote, also, that what he had done "was entirely consistent with the course and the doctrines of the whig party in the Presidential campaign of the preceding summer, and that Texas was then free as any nation on the globe." Well, does not all this show that annexation, though at first rejected by the whigs of this State, was finally adopted and sanctioned by them? I repeat (said Gov. B.) that *it was finally adopted and sanctioned by them*. Why, sir, did you do so? Why, if you knew that war would come of it, did you do so? You prophesied that if done in the way and at the time it was proposed by Mr. Tyler, with the sanction and approbation of Gen. Jackson and the democratic party, that war would be the consequence. *But you never did prophecy* that it would produce war if done at the time and in the manner proposed by Mr. Foster and Mr. Milton Brown. You said expressly to the contrary. Now, it was finally done in *your own way*, and in *your own time*, and still you cry out that it has produced the war! Well, I repeat then, why did you do it? My competitor (said Gov. Brown) often says that I prophesied falsely when I used to say that war would not come of it. Why, sir, you said the same thing; for no member of your party in Congress from this State ever said or believed that war would come of it as finally adopted upon your own proposition. It was only your prophecy, that it would have come if annexation had taken place at that time and in the manner it was first proposed. But it has come, says my competitor. Aye, it has come, but not of annexation—not of the march of the army to the Rio Grande—no, it has come of the course pursued by you and your party. Mexico had slumbered for nearly ten years over her title—she had heard all the great powers of Christendom declare that she had no title; but when she heard from my

competitor and his party in 1844 that she did have a title to Texas—that it would be downright robbery to take it away by annexation, her hopes revived, her cupidity was awakened, her thirst for power and dominion over a portion of the Anglo Saxon race was increased ; and thus this war, with all its debt and horrors, might well be laid at the door of my competitor and his party friends. They gave “aid and comfort” to Mexico in *asserting* her claim to Texas, whatever they may have done in the way of giving aid and comfort to her in *maintaining* it in this war. You, sir, said Gov. Brown, by your speeches and arguments, and your whole tribe of public speakers, in 1844, substantially told Mexico to assert her title—that it was a good one—so good, that in any war which might come from her asserting it, Heaven itself would take sides with her against your own country. And now, sir, said Gov. B., if war has come from annexation, it was *your* annexation ; and if your prophecies that war would come have been fulfilled, you have wrought their fulfilment by encouraging Mexico to assert her claim. That assertion of her claim, is this very war which we are discussing.

And now, said Gov. B., I have said all that my time will allow on the justice of war—on its being a war of self defence against the invasion of Mexico. Let me now ask when was the justice or the necessity of this war, first questioned in Tennessee? Not when I issued my proclamation twelve months ago, for volunteers to engage in it. No, not then, for when I called for three thousand, lo! thirty thousand of the brave and hardy sons of Tennessee, rushed to our standard. Whigs and Democrats equally and alike, rushed forward to the call. But they came not alone ! fathers and mothers, and kindred, and friends, came with them to the place of rendezvous, to see their final departure. When drawn up in line, just before the orders were given to embark on board the boats, you might have seen the tall fine looking young volunteer, leaving the line and wending his way to some group stationed on the beach. Where is he going ? To shake hands with his father for the last time, or to kneel before his mother to receive her last blessings. What is it that sustains his noble heart, at such a trying moment ? It is the proud thought that although part-

ing with his nearest and best friends, he is going to fight for his country, in a just cause. What is it, that makes his mother willing to give up her child, perhaps her only child, to all the hardships and all the perils of so distant and so hazardous a campaign? It is "because she is an American woman, and would surrender not only her child, but if necessary, would lay down her own life for the service of her country. " Go, go my son, it is like death to part with you, but go and drive back the insolent invaders of our soil, and if necessary carry the war to the enemy's country." The parting is over, and the young volunteer, springs back into line, and on he goes, never once doubting that he is going, in the emphatic language of Mr. Clay, to avenge the wrongs of his country. So went forth our brave and gallant volunteers, and so felt and thought all of their kindred and friends, who were left behind. But one sentiment then pervaded all classes, and all parties, in Tennessee. When did you first hear anything to the contrary of all this? It was when Congress was about to assemble, Mr. Webster came down from the north, like a roaring lion, crying "impeach the President" for involving our country in war. The whig members from Tennessee responding too readily to Mr. Webster's sentiment, cried out, this is James K. Polk's war; and my competitor, responding too readily to them, boldly cries out in this very canvass, "this is James K. Polk's war, waged by him to glorify his administration"—"an unnecessary war brought about by an unconstitutional order of the President marching the army to the Rio Grande." Sirs, this sudden questioning of the justice, the necessity and propriety of this war, is the work of whig politicians in Congress—not of the whig party of the country generally. No, God forbid. But the work of the whig politicians of the last Congress. They saw the old issues one by one evaporating before them. The bank was dead; distribution was dead; the protective tariff of 1842 was dead; and nothing seemed to be left to them but a new party, with new issues and new elements to compose it. I firmly and conscientiously believe that such a scheme was formed at Washington, and is now in the process of consummation in the United States. Will Tennessee now unite in the formation of any such anti-

war party? Will either whigs or democrats, go into such an arrangement? You belong to no such party now. You have escaped from such a vortex as yet. Will my countrymen ever go into it, by uniting with those who denounce this war as unjust, and unnecessary, or a war of aggression, on a weak, helpless and innocent nation? I appeal to the glory of the past—to the honor of the present, and to all the proud hopes of the future to prevent it.

And why should you unite with those who declare this war to be James K. Polk's war? Did James K. Polk declare it? No he did not—you know he did not. He advised it and Congress declared it. So James Madison advised the war of 1812 and Congress declared it. Then it was called James Madison's war by the blue light federalists of the north, now it is called James K. Polk's war. Why not call it Mr. Ewing's war, Mr. Gentry's, Mr. Crozier's, or Mr. Cocke's, or Mr. Milton Brown's war. They all voted for it, and declared on the face of the bill that it was brought about by the act of Mexico. Now, my competitor will have it to be James K. Polk's war, brought about, not by any wrongful act of Mexico, but by the unconstitutional order of the President. Not by any wrongful act of Mexico! Gracious God, look at this very invasion. It was to re-enslave a brave and gallant people who had achieved their independence by years of blood and suffering. They *had* achieved it by the acknowledgment of nearly all the civilized nations of the earth—they *had* achieved it by the solemn act of our country admitting them into our glorious Union—they *had* achieved it, and the flag of our country proudly waved over them for their safety and protection. To invade such a people, for the purpose of re-enslaving them, was the greatest outrage recorded in the annals of crime and of blood. Not to have resisted and prevented the foul deed, would have disgraced and dishonored this proud Republic forever. You did resist, and the uniform success of your arms, furnishes proof that justice and Heaven are on your side. You did resist, and the noble men who proudly bore your banner at Monterey, Vera Cruz, and Cerro Gordo are now at home in your midst. How did you greet them on their return? How did the old man, leaning on his staff, hobbling his way down to the

river bank to receive his son, how did he receive him? Did he say to him, "welcome back my son, welcome back; but would to God you had never gone. I have lately learned from our members of Congress, from our whig candidate for Governor, and from the public papers, that you have been fighting in the war of James K. Polk against a weak and innocent nation, and I fear that all the blood you have shed will some day cry, like Abel's from the ground against you." Oh! did he give him such a greeting as this? If he did, that son had rather have died on the bloodiest field of Mexico, than to have heard such a rebuke from the lips of one whom he so much honored and loved. But no, he gave him no such salutation. You kindled bonfires and illuminated all your dwellings on their return. Honor and kindness, and every thing that gratitude could bestow was theirs. Would you now pluck one proud feather from the war plume of the soldier by telling him that all his toils and labors and suffering had been, not to serve his country, but only to glorify the administration of a mere man? And what of that brave and gallant soldier who has not and will never return? He fought hard and nobly in the battle—at last he is stricken down by the enemy. There he lies—his manly form stretched upon the earth, the glaze of death is coming over his eyeballs, the last death rattle is gurgling in his throat—he is dying in a foreign land, far from home, and kindred, and friends. What is it that supports him in this last struggle? What is it but the hope of heaven and the consolation of dying in a just cause. Oh I would not make a speech in Congress, or anywhere else, that might rob him of that hope and consolation, or shake his confidence in the cause for which he was dying, for all this world would give or take from me. No, no, let him die with the confidence of that gallant volunteer from Illinois. He was stretched on the earth, stricken down by the enemy's ball's—he was nearly gone, but his hand yet clinched the trusty sword with which he had fought so long and so valiantly. One of his comrades came by him in the midst of the fight, he reached him his sword—"take it my friend, it can be no more service to me now—take it, and tell our brave comrades to fight on, fight on, our cause is just." These were his last words; and oh, that they were written in

letters of gold on every glorious banner that has been unfurled in this war! Tennessee is even now making arrangements to erect a monument to the gallant dead who have fallen in battle in this war. You will rear (said he) the massive column with its lofty summit towering to the skies. You will engrave the name of Allen and Elliot, and Martin, Ewell, and Kirkpatrick, and all the rest—but with what honorable memorial of their glorious deeds. A very distinguished member of Congress from Tennessee comes forward with his inscription—“Died at Monterey, in a war of conquest and plunder.” Other members from this State propose about the same thing. And last of all comes my competitor with his inscription. What is it? “Died at Monterey, (or Buena Vista,) in the year 1847, in an unnecessary war—in James K. Polk’s war, waged by him to glorify his administration.” Oh! (said Gov. Brown) a monument with such an inscription can never stand. The earth will heave up her bosom and by some mighty earthquake will level it to the ground; or the lightning of Heaven will descend and blast its towering column, and shiver the massive rocks that compose it. No, no, let me give you a memorial worthy the noble deeds of these gallant dead—

“ How sleep the brave, who sink to rest,  
By all their country’s wishes blest ;  
Here honor comes, a pilgrim gray,  
To bless the sod that wraps their clay ;  
And freedom shall awhile repair  
To dwell a weeping hermit here.”

Gov. Brown said: Having now disposed of all the questions in relation to the war, I must follow my competitor in his long, and loud, and numerous complaints, not against the Mexicans, but against his own countrymen. Congress has done wrong, the democrats have done wrong, the President has done wrong, every body has done wrong, but the plunderers and murderers of our people. Well, what has *Congress* done? She has repealed the protective tariff of 1842, and substituted a much lower one in its stead. My competitor denounces this repeal and vehemently advocates the restoration of the tariff of 1842. Two years ago, I stood on this very spot, and before a

large portion of this very assembly, debated this subject with my then talented and gallant competitor. What did he tell you? That James K. Polk did not *intend* to repeal the high tariff of 1842—that he would not *dare* to do it—that James Buchanan, one of his Cabinet, would not allow him to do it. Well, time has overruled this vain prophecy, and we now *know* that James K. Polk *did intend* to repeal it; we now *know* that he did dare to do it, and that James Buchanan *did not* prevent him. What next did he tell you? “To hold on to the tariff of 1842 as the rock of your salvation; that if you did repeal it, it would shut up the workshop of the mechanic, bring ruin on the manufacturer, strike down the wages of labor, and by destroying the home market of the farmer, would leave him with a large surplus of his crops rotting and wasting in his granaries.” I can almost yet hear his eloquent voice calling on you to hold on to the tariff of 1842; to hold on to it, to save the mechanic, the manufacturer, the day laborer, and the farmer. Well, gentlemen, said Gov. Brown, time that tries all things—that confirms every truth and explodes every error—has again interposed and convinced you whether he was right or wrong. The tariff *has* been repealed, and now what do we behold? The workshops of the mechanic have not been closed; the blacksmith with his lusty strength is yet striking his blows on the anvil; the shoemaker is drawing his thread; the tailor is plying his needle; the manufacturers of iron and wool are dividing their wonted profits; whilst the farmers and planters are realizing prices for their stock and their produce of which avarice itself cannot complain. Let us pause for a moment and contemplate the wonderful prosperity which the people of happy America are this day enjoying. Look out on the broad ocean and see the crowded sails of commerce—bending to every breeze, and visiting with rapid velocity all the nations of the earth. Glance your eye along the course of your mighty rivers, and behold the thousands of steamboats, loaded down to their guards with the rich productions of your varied soils and climates. Gaze on this broad and fertile land, with its teeming abundance gladdening the hearts of our own husbandmen and sending life and sustenance to the famishing millions of Europe. Whose heart does not heave upward,

big with joy and gratitude to God, for so much goodness and mercy ! Would my competitor mar, if not totally destroy, all this prosperity and happiness, by going back to the high tariff and low prices of 1842 ? Daniel Webster himself would not do it. Daniel Webster, whose deep and full voice was heard at the preceding session of Congress crying "Repeal, repeal," would not do it. The boldest whigs in the last session of Congress, who had united with Mr. Webster in the cry of "down with the democratic tariff of 1846," would not do it. They met at Washington city—at the time and place when and where these vows of repeal were all to be fulfilled. But when they saw that our low tariff was bringing more money into the Treasury than their high one—when they saw the iron, the cotton, the woolen, and in short the manufacturers of every sort, the mechanics of every description, the farmers, and planters, and stock raisers, were all more prosperous than they ever had been before—they had not the heart to repeal it—they had not the heart *to try* to repeal it. They met, and gazed through the winter with wonder and astonishment on the swelling, booming prosperity of the whole country, and finally adjourned and went home without once offering to repeal the democratic tariff of 1846.

Thus it is, my countrymen, that *time, experience, and actual knowledge*, have now settled the question between a high and low tariff. When we stood on reason and argument, you would not believe us. Now we stand on *time, on experience, and actual knowledge—your knowledge, your experience*. The great ocean crowded with commerce ; your mighty rivers burdened with trade ; the earth with all her mines and mineral, with all her fruits, and herbs, and flowers, all tell you that a low tariff is the best. Can my competitor stand out any longer against all these ?—against the roar of the ocean, the murmurs of the rivers, the soft whispers of the teeming earth—against light, and truth, and knowledge? Nay, nay ; give it up and return to the ancient faith of Tennessee—to *your* faith up to 1837 ; to the faith of Hugh Lawson White and Andrew Jackson. Yield obedience to that *light, and truth, and actual knowledge*, which like three angel forms bending from some azure cloud, now beckon you to return to that faith, from which

you never should have departed. But I cannot leave the subject of the tariff until I have furnished you with the *great fact* which my competitor now denies, and which weighs down like a millstone nearly everything which can be said against the tariff of 1846. That fact is that the duties received under the present tariff for the first five or six months *largely exceed* (probably by more than half a million of dollars,) the amount received during the same period of the preceding year under the tariff of 1842.

What next in the catalogue of charges is preferred against Congress by my competitor? They have established the Independent Treasury. Here, also, *time, experience, and actual knowledge*, have done sad work with the predictions of my competitor and his party. You were told by them that if the Independent Treasury was ever established, it would make one currency of rags for the people and another currency of gold and silver for the office-holders—that it would be a declaration of war against the Banks by banishing specie from the country; that it would become a great government bank, the most odious, they said, of all systems of banking; that it would be a union of the sword and the purse, and enable a President to stand erect like *Cæsar*, holding in the one hand the sword of the nation and in the other its vast treasures, while public liberty would lie lacerated and bleeding at his unhallowed feet. O, what a picture of prophetic despotism! *Cæsar*, the great tyrant of Rome, standing aloft with a bloody sword in his hand, while public liberty lies pale, bleeding and dying at his feet!

Now turn your eyes slowly and gently away from this horrible and bloody picture, to the cities of New York, Philadelphia, Charleston, New Orleans, and St. Louis, where the Independent Treasury is quietly and gently working its way, collecting the public dues of the nation and paying them out to our soldiers of the revolutionary and present war—to the officers and sailors of our gallant navy, and to all others who have just claims on the Government—accomplishing it all through the instrumentality of our fellow-citizens, without the aid of any bank whatsoever, and inflicting, in the language of Mr. Bell, “No great harm to the great interests of either trade, agriculture, or com-

merce." Here were four distinct predictions of my competitor, every one of which has been signally disappointed. The oldest citizen of our country never saw the currency in a sounder or better condition—never saw our exchanges better regulated—never saw our local institutions more able to redeem their liabilities—never saw such an amazing influx of gold and silver into the country ; still my competitor tells you it was not borrowed from any of the free governments of the earth, but finds its origin in the dark and despotic governments of the old world. There is no other really free government on earth from which it *could* have been borrowed ; and, in fact it was not borrowed from any government, either free or despotic. It dates its origin in *our own* free and happy government—to the law of 1789—the first law regulating the receipts and disbursement of the public moneys. The law of 1789, passed in the very morning of our republic, when it came pure and fresh from the patriots of the revolution—the law of 1789, signed by George Washington himself, but now extended and enlarged only to suit the growth and increase of our country. Such is the Independent Treasury now in operation—precisely such as Mr. Bell said it would be, speaking of it just after it had been passed in 1840. My competitor was a *prophet*, Mr. Bell was an *historian*—the one *guessed at it*, the other *knew it*. Thus it is that time and experience have likewise settled this great question, so long disputed between the parties of this country.

But to that Athens speech. What was I endeavoring to do in making that part of it which he reads ? You and your party were opposing the annexation of Texas—you were opposing the extension of our laws over Oregon—you were impeding, by all the means in your power, the growth and enlargement of your own country. I wanted to liberalize and enlarge your patriotism. I told you that the kings of the earth were every day plotting your destruction—that they wished to put out the light of freedom in the new world, in order to reign more triumphantly over the prostrate rights and liberties of mankind. I called on you and your party to unite with me in this noble work of self-defence—to unite with me in extending the area of freedom from ocean to ocean, and

from the Gulf of Mexico in the south, to the great inland seas of the north. To induce him to do so, I called on him to go up with me, in imagination, to the top of some lofty mountain of the west, there to look abroad upon the goodly inheritance which God had given us. I called on him to look toward the Gulf of Mexico, and gaze upon those beautiful constellations that were rising up there. But to my astonishment he would not look in that direction at all. I called upon him to look away toward Oregon—on all her bays, and rivers, and harbors; but I soon found that he would not look up in *that* direction. Baffled in this, I called upon him to turn his face to the east, where the morning sun first shines upon this land of liberty—to look at the old immortal thirteen who achieved our independence; but, to my utter amazement, he would not look even at these. Thereupon I turned to him and asked, in the name of conscience, what country is it that you want to see? “Oh, Governor, only show me some country where some day or other I can be a Governor!” There, now, I cried, you are too hard for me. Why, Moses and Aaron both put together can never show you such a sight as that.

The return of Santa Anna is the next theme of unmeasured censure against the President. Why, says he, was not his return prevented? I answer, because the President *could not* have prevented it. There were a dozen ports through which admittance could have been obtained. But why, again asks my competitor, did the President give orders to Com. Connor *not to try to prevent his return?* The President himself has answered the question. Parides had vowed that he never would make peace with the United States. A strong party in favor of peace was determined to turn him out, and sent to Santa Anna, at Cuba, to come home and assist them in the work. Now it would have been a strange sight to see the President shutting out from Mexico, by his blockade, the very man who had been sent for to come home, to depose Parides, and to make peace with this country. The public records and journals of Mexico all prove the fact that he was sent for expressly for these purposes. But again: no attempt was made to prevent his return, because Parides and many of the priests of that country had formed the plan of turning the government of Mexico into a

monarchy, and calling a prince, from either France or England, in order more effectually to prosecute the war against the United States. *This great fact* is proved by the proclamation of Gen. Taylor at the commencement of this war; it is confirmed by the proclamation of Gen. Scott to the Mexican people after the late battle of Cerro Gordo, and also by the correspondence of Mr. Slidell, our minister at Mexico, frequently read by my competitor. It is a great fact. A monarchy established on this continent! at the very door of our Republic! A monarchy sustained by an army of perhaps two hundred thousand men to fight against you in this war! Santa Anna was called for by the party opposed to this scheme, to come home and defeat it. Who did not then wish to see it defeated? All our Presidents, from Mr. Monroe down, with perhaps one exception, had solemnly declared, that such a step ought to be and would be opposed by our Republic at the very mouth of the cannon. Now if President Polk had prevented Santa Anna's return, and this monarchical scheme had been accomplished, who of his enemies would not have exclaimed, quite horror stricken, behold the short-sighted imbecility of your President! But my competitor objects to his return, because by it *the war has been protracted*. No, sir, no; not by his return. It has been protracted by the course and conduct of your own great leaders in politics. By Webster, Corwin, Severance, and a host of others, whose speeches and writings have been published throughout Mexico. Hear what the Mexican papers declare about Mr. Webster and others: "By the last arrival from New Orleans, we have been placed in possession of late papers from the United States, and a majority of them magnanimously denounce and condemn this war against this country (Mexico) as infamous, unholy, and unrighteous. Daniel Webster, the most liberal and enlightened statesman of the country, says that the expenses of the war are more than half a million a day, and he has introduced resolutions into the Senate to impeach the cowardly Jim Polk, and turn him out of office. These northern barbarians cannot carry on this war very long at this rate, and Mr. Webster deserves the thanks of the whole Mexican nation, for the noble stand he has taken on the side of right and justice. Arise, Mexicans, and drive the invaders

from our soil? Mexicans can derive comfort from the fact that the greater part of the people of the United States are opposed to this war, as their papers show, and the base man who is at the head of the government *will be exiled from power.*" Here is the true cause why this war has been procrastinated. Now look at some of the newspapers doubtless referred to in this Mexican newspaper, (the *Diario.*) The *Haverhill [Massachusetts] Journal* says: "To volunteer or vote a dollar to carry on the war, is moral treason against the God of Heaven and rights of mankind."

Come now nearer home, and read from the speech of Senator Corwin, three or four hundred of which I found franked to one county in Tennessee: "You must call your army back! *you must!* unless you are willing to be thought a *robber*—an invader of your neighbors—and if your President asks me for men and money to carry it on, he shall have neither." Read now from "the *Roman*," one of Mr. Corwin's Ohio papers I think: "The volunteers—these jackasses are going off to *loaf, prowl*, murder and steal in Mexico, while the orderly part of the community, are to take care of their wives and children," &c. So much for Ohio; now look still nearer, to Kentucky, your next door neighbor. The *Louisville Journal*, speaking of the fall of the Mexican Capital, says: "fallen in *one of the most iniquitous wars* ever recorded in the dark and bloody annals of mankind." Yes, sirs, here is the true cause of the procrastination of this war, the publication of all such things as these amongst the bigoted, ignorant and degraded people of Mexico—worse a thousand times worse than the return of Santa Anna! But my competitor is filled with utter horror and amazement, that Congress did not sustain a call for information, as to who was sent to Cuba by the President, to inform him that he might return, &c. Sirs, the President never sent any body there—he never wrote a line to Santa Anna, in all his life, nor did he ever receive one from him; the whole *insinuation* was a vile slander on the President, and an insult to the American people. The resolution was so intended and was voted down accordingly. If my competitor was ever to become a Governor, would his friends sustain a resolution in the Legislature, calling upon him to state what sum or sums of money, he distributed among the delegates at Nashville in

order to secure his nomination, over his competitor? It would be an infamous slander on him, and an insult to the people of the State, and they would vote it down accordingly. No, in both these cases, the only way would be to introduce a resolution, raising a committee, with power to send for persons and papers, to investigate the charges, and if found true to bring forward an impeachment against the President, or the Governor. I repeat that this would be the only regular and proper mode of proceeding in either case.

My competitor next raises complaint against the democratic party in Congress, for not raising the pay of the volunteers in this Mexican war. Not raising their pay! why every democrat from Tennessee, when the bill raising their pay was finally on its passage, voted for it—every one, I repeat every one. But he answers that they did not vote so at the preceding session. Well, I answer *they did*, with only one exception. My competitor has spread a wrong opinion on this subject, nearly all over the State. I now tell him to look to House Journal of 1846, May the 11th, page 793. There in the very bill *declaring* the war, a motion was made by Mr. Chapman of Alabama, to amend the bill as follows: "In the 10th section of the bill strike out the word \$8 and insert \$10," so that the bill might read, "privates of infantry, artillery and riflemen, shall receive \$10 per month; for this every whig voted except one, and every democrat also except one, and both these could doubtless give satisfactory explanations of their votes not implying opposition to increased pay at all, so that both parties ought to be fairly put down as equally in favor of raising the monthly pay of these gallant men.

But the volunteers were not allowed to elect their Brigadier and Major Generals. Well, who is to blame for that? Not the President surely! He appointed them precisely because the *law* commanded him to do it. But who passed the law? Congress of course. My competitor must therefore hurl his thunder against that body—against his own party friends there, too, as well as the democrats. Did his friends want to enlarge the rights of volunteers, by giving them the privilege of electing Brigadier and Major Generals?—no such thing—let me read to you from the journals of 1846, page 1008, June 26:

Mr. Cocke moved to amend bill (211) by striking out all of the same that related to Brigadier Generals, and inserting the following: "and when the number of volunteer regiments from any one State offered and accepted, under the said act of 13th May, 1846, shall be sufficient to compose a brigade, a Brigadier, General for the command of the same shall be *appointed* (not elected) by the authority of the State to which they belong, in the manner prescribed by the laws of said State." Sirs, you see this amendment did not apply to *Major Generals* at all; they were left by the admission of all parties in Congress, to be appointed by the President. It was confined to *Brigadier Generals*, and these were to be *appointed*, not elected, taken away from the President, who is responsible for this war, and transferred, not to the volunteers, oh no not to them, but the *Governors* of States, of North Carolina, of Kentucky and others. In Tennessee, we had no law to cover such an amendment, and to have had the benefit of it, we must have had a called session of the Legislature. Besides this, look to the date of the amendment, the 26th June, 1846. Where were our volunteers then? One regiment was almost on the theatre of their gallantry and glory, a second one was on its way, whilst the third one, (cavalry) were wending their way through the State of Arkansas. When and where did they meet, when they could have elected their Brigadier General? Never, if at all, until the period of their service was almost expired.

He next objects to the appointments made by the President—that they were made from the shades of private life—that they were mere partisans who had never heard a hostile cannon roar. No *special* complaints have been made—no individual cases are mentioned of partisan or incompetent appointments. I must therefore meet the charge in its general aspect; and here I call for the oldest and most learned man of this assembly: Come forward, you who have read the history of all the wars of ancient and modern times, and tells us whether you ever heard or read of any war, where every legion and every officer had so completely filled up the just and high expectations of their country! Every man seems to have proved himself a

soldier, and every officer seems to have emulated the fame of those illustrious captains who have gone before him. Honor, then, to all for deeds of courage, activity and skill, that would have emblazoned the names of a Jackson, a Carroll, or a Coffee, in the palmiest days of their glory.

And now (said Gov. Brown,) in the last few moments of my time, I have a few words to say, in conclusion, to those gallant men who have returned from the wars, and taken their places again in society. Look well to what is now going on in the State, and elsewhere in this Union; look well to the efforts now making to bring this war into disrepute. The moment that is done, away go all the fame and the honors you have won in this arduous service. Let but this war become *doubtful*, as to its justice, its necessity and its constitutionality, and all the proud honors of Monterey, Buena Vista and Cerro Gordo, wither and perish in a moment—the war plume of the soldier trails in the dust, and you who are so justly the pride, boast and ornaments of our country, sink down neglected, if not scorned, for those noble achievements that so justly entitle you to a nation's thanks—a nation's gratitude.

## S P E E C H .

*Extracts from the Speech of Gov. Aaron V. Brown, one of the Democratic Electors for the State at large, at Jonesboro', East Tennessee, August, 21, 1848.*

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I rise, said Gov. Brown, to address you as one of the Democratic Electors of President and Vice President for the State at large. If I had consulted my personal ease, or had fondly lingered over the endearments of home, had I looked only to the many years of my life already devoted to the public service, or to the number of times I have already traversed the State, crossing her rivers and scaling her mountains, I might well have declined a positions, so full of labor and responsibility. But, fellow-citizens, (said Gov. B.) I did not feel at liberty to decline it. Identified with you in so many former struggles, your leader and standard bearer in some of them, I did not feel willing to retire whilst the enemy was yet in the field, flushed with a recent victory, which chance and slander, not valor, have achieved for him. Sirs, I ought not to have declined it, because I came freely amongst you in 1844, and I may say, had no small agency in persuading you to bring this administration into power. I exhorted you to commit your political destinies to its guidance, and assured you that in my opinion it would lead you in the way of prosperity and of honor. Now that it is drawing so nearly to its termination, it was peculiarly proper that I should come back among you, that you might look me in the face and justly upbraid me, for any disasters which it may have brought upon you. You were then confidently told that James K. Polk, the democratic nominee, was incompetent to fill so exalted a station. That in peace or

in war, he would be alike unable to sustain the credit, the honor and the glory of the republic. The most insulting and invidious comparisons were instituted between him and his competitor. In ornithology, the one was the stupid moping bird of night, whilst the other was the majestic Eagle, soaring aloft among the clouds. Among quadrupeds, one was the great American Eclipse, whilst the other was the little Shetland poney of the circus. Among mortals, the one was so nearly allied to Divinity, that if he should chance to fall into a mesmeric slumber, you might extract virtue enough from him to make half a dozen such men as James K. Polk!! Well, time, the great expounder of human events, has rolled onward and I stand to-day present before you, to point you to the proudest refutation of all these insulting predictions.

Look first in the order of time, as I know it is first in your affections, to the state and condition of your Federal Union. Instead of finding, as you were told you would do, its broken and shattered fragments everywhere strewed around you, you behold its bright and golden arch with more than adamantine strength, still bespanning the continent. Its western terminus that used to illuminate only the summit of the Rocky Mountains, now pours its rich effulgence on all the rivers, and bays and harbors of the Pacific. Look again on this bright and beautiful picture, less bright and beautiful by far than its glorious realization. In the last four years, four new States have been added to the confederacy. Florida and Texas, two "bright particular stars" shining in the South, whilst Iowa and Wisconsin, twin sisters of the Lakes, in sylvan loveliness lie reposing in the North. A new constellation, for every year of this administration, to shine upon it and to adorn it. That the act of Congress admitting Florida and the resolution of annexation of Texas, did a little antecede the advent of this administration, can make no difference, because they were but the ripening fruits of that democratic policy, which throughout its career, has so much distinguished it.

Look now to his alleged incompetency to manage the *civil affairs* of the nation. History—impartial history—with its iron pen, has recorded a succession of able messages to Congress, which will compare favorably with those of his most

distinguished predecessors. It has recorded, too, a brilliant series of contested measures, which can find no parallel in any equal period of the republic. So successfully have these measures gone into operation, that they have *extorted* from the whig party the reluctant admission, that they cannot and dare not run a Presidential candidate, who will publicly avow his opposition to one of them. In the Deloney letter, the question is expressly asked, "Gen. Taylor, are you in favor of a United States Bank?" No, says the General, I am not prepared to say that I am. In the same letter, "General Taylor, are you opposed to the democratic revenue tariff of 1846?" No, says the General, I am not prepared to say that I am. Again, "Gen. Taylor, are you opposed to the independent or sub-treasury, which the democrats have lately established and against which the whigs have warred with such undying opposition?" No, says Gen. Taylor, I am not prepared to say that I am opposed to that either. These are substantially the questions and answers of that celebrated letter, and as long as they shall live, they will constitute the loftiest eulogium on the civil measures of James K. Polk's administration.

I come now to his alleged incompetency in the event of a foreign war. You will remember how it was more than intimated, that in that event, *he would not have the nerve* to stand up to such a crisis. Well, the war did come. I speak not yet of why and how it came. But it did come, and what was said then? Why, the counter cry was instantly raised that he had *too much nerve!* so much that he even *provoked* the war—that he even *run out* to meet it, by ordering the march of the army to the Rio Grande. When afterwards in the further progress of the war, your triumphant Eagles had perched on all the domes of her capitol, what was said then? Why, this democratic President of ours is altogether *too bloody minded*. He is a very Tamerlane or Ghensikhan and don't want to make a treaty, until he can swallow up the whole national sovereignty of Mexico! And yet this bloody accusation had scarcely fallen from the lips of the Senator who pronounced it, before the President sent in a treaty eminently distinguished for its liberality and its forbearance.

With the ratification of that treaty, the bright and beautiful

goddess of peace again returns to our country. She comes,

"Like a beautiful cloud to its Haven of rest,  
On the white wings of peace floating up from the West."

She comes bearing in her hands all that was ever demanded ; "indemnity for the past and security for the future." She proclaims too, to the everlasting honor of this administration and of the Christian age in which we live, that in all this war, not a gun has been fired, not a city has been taken, not a province has been invaded, without her having first tendered to our deluded enemy the Olive Branch of Peace.

With her also has returned that gallant army, that has borne your standard so high and so proudly on every battle field of Mexico. They come—having never lost a battle, never sustained a defeat. They come, having covered themselves, their kindred, their country, and this administration, with undying honors. They come, having filled America with joy and the world with admiration. The world ! All the civilized nations of it, gazing on the wonderful prowess of our arms and the sublime operations of our republican system under this and preceding democratic administrations, are even now kindling up the beacon fires of liberty, to light their way "to the model republic of America." France, springing up like a young giant, is already in the path, whilst the other nations of the continent are preparing to follow. England, too, hoary and veteran as she is in the ways of oppression, begins to feel the mighty impulse ; whilst Ireland—down-trodden and oppressed Ireland—slowly lifts herself up and looks mournfully around her for relief. But alas ! I fear there is no relief for Ireland ! I fear that her own immortal poet has too well described her condition :

"Alas, for his country ! her pride has gone by,  
And that spirit is broken that never would bend ;  
O'er her ruin in secret her children must sigh,  
For 'tis treason to love her, and death to defend.  
Unpriz'd are her sons, till they have learned to betray,  
Undistinguished they live, if they shame not their sires ;  
And the torch that would light them through *liberty's* way,  
Must be caught from the pile where their country expires."

I know, gentlemen, that you will excuse this rapid review of

the past four years, as indispensable to the contemplation of the four which are to follow. It exhibits the glorious triumphs of democratic principles and measures, and brings us directly to the question, whether there should be any change or abandonment of them in the pending presidential election. Opposition to these principles and measures laid the foundation of the present whig party. That opposition has been for sixteen years bold, fierce and unrelenting. Its author, and I may now say its FINISHER, has been ever in the field, urging his followers to victory or death. But in every election they have had some well known and well understood platform on which to stand. But how stands the case in the present election? Has either of the great political parties of this country, so far forgotton what was due to its own honor or to the people of the United States, as to conceal their opinions and utterly refuse to disclose them? Let impartial and undeniable facts answer the terrible question. Go with me first to the records of the convention of the democratic party at Baltimore. Read over the long series of resolutions, fully covering every great doctrine, and principle, and measure of our party. Turn next to the letters of acceptance of our nominees, Gens. Cass and Butler, and see how fully and completely our creed is endorsed. Every democratic heart must swell with a just pride, that all is so plain, and public, and patriotic.

Now turn to the records of the Philadelphia whig convention. Read over its pages—every line of them—and you will not find one word about principles, or doctrines, or measures—not a word against any of the democratic measures; not a word for or against a bank, for a protective tariff, for distribution, against the sub-treasury, against the war, against the acquisition of territory to pay the expenses of the war—nothing for or against that firebrand of hell, the Wilmot Proviso! It was no accidental omission in that convention, for more than one proposition was made to make known, in some way or other, the principles of their party *as involved in this election*, but they were ruled to be either out of order, or lost in the scuffle and clamor for availability. Nor was it left to the response of General Taylor, their nominee, to elucidate their party, senti-

ments on all these subjects; for when you read over his letter of acceptance, you are forced to exclaim,

“Silence, how dead! and darkness, how profound!”

Remember, gentlemen, we are searching for the principles of the whig party, involved in this election. We have searched for them in the high places of the party, but have searched in vain. Let no man point us *now*, as formerly, to the votes and speeches of Mr. Clay as the true exponents of whig principles. Time was when he was the living and true oracle. Time was when he was regarded and called the very embodiment of whig-gery itself. But, alas! that “embodiment” is now dead, politically dead—slain, not by his enemies, but murdered outright by those whom he had nourished into life and protected beneath the shadow of his own great name. Like Cæsar, he was slain in the capitol, *by his own friends*. He expired, too, like him, not at the foot of Pompey’s statue, but at the base of that great monument of whig principles which he himself had reared. Who, of all “the conspirators,” dare, now in their extremity, to go down to the lone resting place of the departed, to pluck up from his tomb the principles and doctrines with which to emblazon the *blank and naked standard* which they have committed to the hands of General Taylor? Fancy to yourself some envious Casca, or some well beloved Brutus, if you please, starting on such a pilgrimage. He arrives—the hour is midnight. Standing beneath the gloomy arches of the sepulchre, he calls aloud on “the Sage of Ashland!” The very grave would burst open on such a call, and a form like that of Samuel of old, slowly rising to his view, would cry, “Aback! aback! I hear the voice of one who murdered the whig party when they murdered me.”

Sir, said Gov. B., (turning slowly to Gov. Jones,) say not that it is a strange spectacle to see me shedding tears over the grave of Henry Clay—I, who twenty years ago, introduced resolutions into the Legislature of Tennessee, condemning his imputed bargain, intrigue and corruption in the election of Mr. Adams. No, sir, I was his public enemy—struck at him as such, in open day. He expected it from all good Jackson men, and struck back giant blows in return. But I never struck at

him as a false friend in disguise; Judas like, I never "*betrayed him with a kiss*"—I never opened to him the arms of pretended friendship, whilst I drove the keen stiletto to his heart! No, sir, I shed no tears over the grave of this fallen Cæsar. I only point his old and sincere friends to

"the deep damnation of his taking off."

The *old* principles of the party having *expired* with Mr. Clay, and his party having in fact killed him off on account of his principles, it remains only to be seen what *new ones* have been substituted in their place and stand involved in the present election. Before I proceed with this distinct proposition, I mean to call my competitor to the stand, to prove by him that the nomination of General Taylor was a total and final abandonment of all the old principles of the whig party. He has denied it to-day, and on former days, and I will now prove it upon him by the words which have fallen from his own lips. On the 8th of April last, standing at the head and in the presence of his party, he warned his friends "of the fearful precipice on which they rushed," in the nomination of General Taylor: "An abyss," said he, "which if not avoided I fear is destined to swallow up our brightest hopes and most cherished principles." Well, Governor, they would not avoid Taylor's nomination, and so, sure enough, away went "your most cherished principles." Again: now turn to the 13th page of that speech, where you ask, after enumerating your principles, "how stands General Taylor on these important subjects? Who can answer? Who shall speak? The deep, awful silence of the grave is not more profound. And yet we are urged to select him as the champion of our principles, the safe depository of our faith, the great expounder of our creed." Gov. Jones, you were then horrified at the very idea of doing such a thing! You proceed, "are gentlemen ready thus to *abandon* their principles, for I can regard it as nothing less than an abandonment." Gov. Jones (said Gov. B.) mark the fullness and power of this language, "nothing less than an abandonment;" not of one, two or three, but of all the cherished principles of your party. In that or some other speech, you have declared that a party without principles is like a body without a soul; and putting

together your arguments and admissions on former occasions, you leave the old Clay whig party truly "in a lost and ruined condition." But, sir, said Gov. Brown, no man should be surprised at such a result, who looks at the astounding declaration on the 14th page of your speech. There you proclaim that, although you will not "willingly make the surrender of your principles," yet you will obey the decision of the great whig convention, "choosing rather to do what *my judgment condemns*, standing and acting with my friends, rather than by standing out, giving aid and comfort to the enemy." Sir, said Gov. B., I am amazed at such sentiments, and I enter my eternal protestation against them. "I will not," says he, "willingly make a surrender of my principles." No, sir, a man must die a martyr to his principles, although he may often yield up his *opinions* and notions of expediency and policy to the judgment of his party friends; but if he would be true to God, to truth and virtue, he must surrender his principles to no power upon earth! But Gov. Jones gives his reason for this sentiment, so shocking to all the high elements of morality; "choosing rather to do that which my judgment condemns," &c. Now what is a man's judgment? what his reason? It is that high and noble faculty which God has planted in the mind of man to mark his superiority over the brute creation, and he that rudely tears the bright jewel from his brow, is no safe counsellor and guide to this large Christian assembly.

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'tis a base  
Abandonment of reason to resign  
Our right of thought.

But I mean to fortify my position, that the old whig principles are abandoned, and are not involved in this election, by a witness greater than Gov. Jones himself. Gen. Taylor declares, in his answer to the Deloney letter, in relation to a bank and the tariff, that he was not prepared to give his opinions, and could only do so after duly investigating them, which he declared he had not the time then to do, all his time being taken up in his official duties. Now how can questions be at issue, on which a candidate has not yet formed his opinion? Again: on the 15th February 1848, Gen. Taylor writes a letter to a gentleman at Cincinnati as follows: "I have to inform you

that I have laid it down as a principle not to give my opinions upon or prejudge in any way the various questions of policy now at issue between the political parties of the country, nor to promise what I would or would not do, were I elected to the Presidency of the United States, and that in the cases presented in your letter, I see no necessity for departing from that principle."

Now, I put it to all honorable men, to all right thinking men, whether a silent, undisclosive candidate like this puts any thing whatsoever in issue—new or old, good or bad, right or wrong. His only *principle* is to declare *no principle*. Sir, it was this letter, and others like it, that made you declare in your Nashville speech that no man can command the confidence and suffrage of the whig party who refuses to speak out plainly, fully and freely. Here we see that Gen. Taylor refuses to speak *out at all—on any subject—to any body*. It was this letter, and others like it—it was your speech at Nashville, condemning his dogged and obstinate concealment of his principles, that turned hundreds of your party and of my party away from him, and keep them from him to this hour, in despite of all your back-sliding and tame surrender of your reason and your judgment to the commands of party. Sir, said Gov. B. to Gov. Jones, you sometimes charge me with having been once in favor of Gen. Taylor. I was never for him but on the *express condition* that he should make a full and frank exposition of his principles, and that these, when made, should be found satisfactory to the great mass of the American people—then, and not till then, was I willing to support him on national grounds; but never—never, as a mere party candidate, to be swallowed down, as he subsequently was, by a fraudulent device, and then vomited up amidst the party orgies of the Philadelphia convention. Sir, these things released me, and released all other democrats, from all and every real or supposed obligation to vote for Gen. Taylor. If any further reason were wanting to justify our surrendering all ideas of his support, let it be found in the bold and insulting declaration of my competitor in his speech at Philadelphia, that "he cared not whether Zachary Taylor was a whig or not—or what he was; provided he was against locofocoism, he was with him." Let

him be native American—anti-mason—abolitionist—saint or devil—any thing or nothing, so he is opposed to the democracy!! To that democracy which, in another part of the same speech, notwithstanding all his gentle cooing to them *now*, he denominates “that lying, double-dealing, spurious democracy, modern locofocoism, [which he declared] he utterly abhorred and repudiated.” What democrat in all this broad land could sit down to a Taylor entertainment with an insulting invitation like this?

But Gov. Jones endeavors to escape from all these uncomfortable dilemmas, by saying that, since the 8th of April last, General Taylor *has come out* with a satisfactory declaration of whig principles, and therefore it is that he now supports him. That if he had not, he would not advocate his election. I thank the gentleman, said Gov. B., for the admission, and will hold him to it with an iron grasp. I will enumerate the whig principles, known and admitted to be such, and then demand to know of Gov. Jones which one of them has Gen. Taylor expressed his opinion upon since the 8th of April to this very hour. Note them, Gov. Jones, and tell me one. 1st, the bank—2d, the tariff—3d, internal improvements. Has he expressed his opinions for or against any one of these? No, not one. In his Allison letter he speaks of how he would apply the *veto power to them*, but his opinions *on them*, for or against, he does not pretend to intimate—not at all, not at all. 4th, opposition to the war as unjust and unconstitutional. This is another whig doctrine. Does Gen. Taylor give his opinions on this point in his Allison or any other letter up to this day? No, he does not. He speaks of the evils of war generally, and deprecates the subjugation of other nations by “conquest;” but gives no opinion as to the Mexican war in particular. 5th, unwillingness to take from Mexico territorial indemnity against the expenses of the war, is another whig doctrine on which Gen. Taylor is profoundly silent in the Allison letter. Remember, sir, I am now through the enumeration of whig principles and measures, and I yet hold you in an iron grasp, and demand to know on what one *has* Gen. Taylor developed his opinions since your Nashville speech. You tell me that he has come out at least for the whig doctrine of *the veto*. No such thing,

sir—to use your own favorite mode of expression, “not a bit of it.” Look to the whig speeches in Congress after Tyler’s vetoes—look to your own speech at Nashville, where the whig doctrine is, a total abolition of the veto power. Listen to your own words : “Who does not remember the lofty denunciations against not only the improper exercise of this power, but against its very existence? Have we not pointed out the horrors of this one man power? this spirit of monarchy? and have we not solemnly pledged ourselves to the country—have we not invoked the genius of liberty to attest our sincerity, that, when in power, we would use the proper means to *rid the constitution* of this incubus and strike from the hands of the people this last fetter?” Now, hear what Gen. Taylor says about this “abolition and annihilation” of the veto power. In his Allison letter: “The veto power. The power given by the constitution to the Executive to interpose his veto is a high conservative power,” &c. There, now, you see that so far from coming out *for* your whig anti-veto power, he knocks it right on the head, and leaves you with the poor excuse of having gone *for* Taylor only because he went *against* you and one of your favorite doctrines. So I hold you in that iron grasp yet. You seek to escape by saying that he lays down a good whig rule for the exercise of the veto power under the constitution. And is this all—all the platform on which you and your party, and your candidate, have to stand in this great election? With no one opinion expressed, on any one subject in the world, except the application of the veto power in almost the very words of nearly every President that ever went before him. What are they? “But in my opinion, should never be exercised except in cases of clear violation of the constitution or manifest haste and want of consideration of Congress.”

Sir, if the constitution be violated by an act of Congress, who would thank Gen. Taylor to veto it? He takes an oath to support the constitution, and if Congress send him a bill which he cannot sign consistently with that instrument, the scorn of the world and the hottest fires of perdition await him if he dare to put his signature to it. So there is no platform in that. But he adds the other clause you say, that he will not veto it unless it be in cases of “manifest haste and want of

consideration of Congress." Who would? Why, every President who ever vetoed a law not on constitutional grounds, put it on the footing expressly that Congress had not *duly considered the subject*. No President ever presumed a wilful and deliberate purpose in Congress to do wrong, and none ever will. As it relates to the balance of the Allison letter, where Gen. Taylor declares that "on the subject of the currency, the tariff, and internal improvements by Congress, the will of the people as expressed by Congress, ought to be respected and carried out by the Executive." If the previous rule in relation to the application of the veto power is to be applied to this, it means nothing—absolutely nothing. But if it is not, then it means what Gen. Taylor can never stand up to—what his oath and the constitution would never allow him to stand up to. But I need not argue this, because Gov. Jones every day admits that on the currency, the tariff, and internal improvements, if Congress violated the constitution, or legislated "without due consideration," Gen. Taylor would have to veto on these as on all other subjects. This admission sweeps away the whole Allison letter, and the fancied platform which it reared tumbles to the ground, and *I hold you yet, sir, in the iron grasp of your admission*, not to support Gen. Taylor if he has not come out fully and freely with his principles. But, sir, I feel that it is useless to press you further on this admission, for I am satisfied in my mind that it is *no disclosures* of Gen. Taylor that have worked out your conversion to him—but that surrender of reason, that throwing away of your *better judgment*, that unwilling *abandonment of principles* at the high commands of your party, which you avow in your Nashville speech.

But before I leave this Allison letter, allow me to ask why this fresh and furious onslaught on the veto power of the Constitution? It has been there ever since the republic was founded. It was put there *unanimously* by the convention who framed the Constitution—by Washington, and Madison, and Franklin, and a long list of the best men that God in his mercy ever sent to this earth—under it the republic has grown from thirteen to thirty States, and from three or four to more than twenty millions of inhabitants. In commerce and navigation; in agriculture and the mechanical arts and sciences; in all the elements of

national greatness, both in peace and in war, she stands the wonder of the age and of the world. Is it possible, that this *canker worm* has been working at the bud and eating out the vital principles of our government, unfelt and unperceived during all this while? Well, look to its mighty ravages. Out of more than seven thousand laws, twenty-five only have been vetoed—one out of about two hundred and eighty ; twice by George Washington ; six times by Mr. Madison ; once by Mr. Monroe ; eight or nine times in the eight years of Gen. Jackson ; four times by Mr. Tyler, and three times by James K. Polk. That is to say, in twenty-five out of seven thousand laws, the different Presidents of the United States have called on Congress to *re-consider* laws which they had passed and sent to him for approval—twenty-five times out of seven thousand ! If any of these laws were, on re-consideration, thought to be decidedly good ones, Congress could have passed them over the head of the President and in spite of his veto, and no mischief could have come to the Republic.

My competitor claims Alexander Hamilton as the *author* of the veto as it stands in the Constitution. He must have read the history of the convention to a poor purpose to have come to that conclusion. Hamilton proposed and advocated *an absolute* veto. Mr. Madison or Mr. Edmund Randolph proposed a *qualified* or limited one and it was adopted, Hamilton's having been rejected by the convention. And at what moment is it proposed to obliterate this veto power, or to render it nugatory and vain by non-user and neglect? In former years the power of numbers was with the South, and she rested in assurance and confidence beneath the shadow of that power, but now "the sceptre has departed from Judah," and an inexorable majority of more than forty votes is daily cast against you from the North—from the North, where the fires of fanaticism are now burning and threatening every year to consume you and your institutions together. It is at such a moment as this that you are called upon to heave overboard your last anchor, or to throw away the last shield of your protection and safety.

But I must pass away, said Gov. Brown, for want of time, from a further examination of this subject, in order to answer

some of the objections taken by Gov. Jones to the democratic nominee, Gen. Cass, one of the purest patriots and wisest statesmen this country has ever produced.

Gov. Brown then reviewed and most triumphantly answered the charge that Gen. Cass was a federalist in 1798, or at any other time. He showed by extracts from one of Gov. Jones' northern speeches, that he had declared, that Gen. Cass had been a democrat all the days of his life. He denied that Gov. Jones had brought forward *one particle of proof* to show that Gen. Cass voted for or approved the vagrant law of Michigan—that it had as well be said that the Speakers of the two houses of the Legislature, or of Congress, voted for all the bills they signed, or that the foreman of the grand jury must have voted for every bill of presentment or indictment which he signs and presents to the court. He adverted to the charge that Gen. Cass had received large sums of extra allowances for his public services, but said that Gov. Jones admitted that he had not received one dollar which the laws of the land did not authorize to be paid to him. This he said settled that charge forever. If the law allowed and authorized the payment there was an end of the matter. He showed that the statements of Mr. Wise before the committee prejudicial to Gen. Cass, were all founded on the *hearsay* and *information* of others, and not on any knowledge of Mr. Wise himself. He adverted to certain extracts from a speech of Mr. Yancy, of Alabama, pronouncing Gen. Cass to be a time-serving politician and an enemy to the South; and said, Mr. Yancy was a disappointed member of the Baltimore Convention, who had returned home, and whatever he was saying, was more than counterbalanced by the high testimony of respect for the public character and private virtues of Gen. Cass, which had been borne by such whigs as Abbott Lawrence, S. S. Prentiss and Bailie Peyton. Gov. Brown after pronouncing the highest eulogium on Gen. Cass and Gen. Butler in peace and in war, in the Cabinet and the field, said he must pass on to a more grave objection taken by Gov. Jones to the election of Gen. Cass.

That objection was, that the election of Lewis Cass to the Presidency of the United States would be an endorsement of the war policy of this administration—"a policy of invasion—

of aggression—of territorial aggrandizement—which, if persisted in, must lead to the destruction of our government.” And pray, sir, have you not already endorsed that policy, by the selection of your own candidate? He has been the very head and front of that war. He has gathered all his laurels in it. Without it he had been nothing—with it he has become your proud and boasted candidate. He *advised* every step in it. He *advised* the march to the banks of the Rio Grande, and afterward that the war should be carried over the *Rio Grande* into the very heart and vitals of the Republic. He entered so deeply and cordially into it, that in his letter to Gen. Gaines, he *advised* the capture and retention of six or seven of her finest provinces; and yet, sir, after all, you go down into the blood and carnage of this unjust and damnable war and pluck up your candidate for the Presidency. Posterity will be amazed at the inconsistency and absurdity of the act. But I meet the charge of Gov. Jones with a positive and unequivocal denial. The war policy of this administration *has not* been aggressive—*has not* been for territorial aggrandizement, and I challenge him at once to the proof. Sirs, he offers you none, and will offer you none. He prefers charges against his own government which, if true, ought to sink it to the lowest depths of infamy and dishonor—charges that present this noble Republic as standing out amongst the other nations of the earth, as a proud despot, bloated with the plunder and reeking with the blood of a weak, innocent and helpless people; and yet stops not and cares not to bring forward one fact, or to adduce one argument, to support the foul impeachment. Well, if he will not *prove* it, I will *disprove* it.

Since this war has been ended and our armies withdrawn, Mexico, by her commissioners who negotiated the treaty, has acknowledged that she did not own one acre of territory on this side the Rio del Norte; that she had not owned one acre of it since the battle of San Jacinto; that in every attempt she had made to regain it, she had been whipped off from it, “leaving the country between the Rio Grande and the Nueces absolutely free.” Absolutely free! This is the free and voluntary confession of one of the parties to the controversy, and is the

very highest and best authority. Reverdy Johnson, one of your ablest Senators, last winter, after deep and profound investigation, stated the same facts in almost the same words, and expressly declared, "that from the commencement of the revolution of 1834 to the independence declared by Texas in 1836—from that period to the admission of Texas into the Union in 1845, and from '45 to the present hour, no Mexican document can be found, military or civil—no Mexican officer, civil or military, has ever been known maintaining that the territory lying between the Nueces and the Rio Grande belonged to Mexico, by any other title than that which she maintained to the whole territory between the Sabine and the Rio Grande." I pause and stand on these two recent authorities, and demand of Gov. Jones to overturn them or take back the bold and disgracing charges made against his own government. Reverdy Johnson, one of the ablest whigs in Congress, tells you you are wrong. Mexico herself, the only party interested against us, tells you you are wrong, and your heart ought to leap with joy from the Mexican to the American side of the question.

If then the lower Rio Grande, to which only the army was sent, were the true boundary between the United States (after annexation) and Mexico, every doubt and shadow of doubt, about the justice, the constitutionality and necessity of the Mexican war vanishes at once. The war policy of the President instantly becomes one of *self-defence*, protecting from invasion every portion of our wide-spreading Republic. Yes, sirs, after all you have heard, the President, has only acted on the principles of *self-defence*. The Mexican army, in the night time, crossed the true boundary, with the view of re-conquering the whole of Texas, assailed our army and murdered our people on our own soil, as is now admitted by Mexico herself. But Gov. Jones tells us, however all this may be, that I told you in 1844 that there would be no war, and therefore I was a false prophet on the subject. Well, sir, who falsified my prophecy? Not Mexico—but you—your party—you as good as sent word to her that she had given up Texas too easily—that she had a good title to it, and that if she would assert it, that Heaven would take sides with her, and that it would be downright *robbery* for the United States to take it from her.

So encouraged she did go to war for it, and if I and my party were bad *prophets*, you and your party were *worse patriots*. But I charge, (said Gov. Brown,) not only that the immediate origin of this war (annexation being the remote one) is to be attributed to the course and conduct of your party, but that its *procrastination*, with all the consequent loss of life and treasure, lies at your door.

Your whig speeches were thrown broadcast throughout Mexico ; our army marching from hacienda to hacienda every where met with them. Your whig leaders were enrolled as honorary members upon the pages of Mexican societies, and their public journals proclaimed that no treaty should be made *until their friends* should succeed in turning James K. Polk out and turning themselves into power—then, and not till then, they said, should a treaty be made and peace restored to the two countries. Yes, sir, and you speak of the blood that has been shed and the precious lives that have been lost in this war. Walk about the graveyards of the city of Mexico ; pass by those on the great National road from Vera Cruz ; pause at that great one at New Orleans, and if the brave and gallant dead could rise from their resting places, with uplifted hands, they would exclaim, “ We owe our death to the conduct of our own countrymen.” The balls that sent many of these brave defenders of their country to their long homes were wrapped up in the speeches of distinguished leaders of the whig party. Sir, there is no disguising, no excusing, no palliating great and distressing facts like these, and it is time for *patriots* of every age and name and party to enter a solemn protest against such conduct. The leaders and managers of the whig party have too long and too often exhibited a fatal proclivity in every difficulty with a foreign nation to take sides against their own government—I say against *their own government* ; I will not say against *their own country*.

In our difficulties with France to compel her to pay up indemnities, which she had solemnly bound herself by treaty to do, your party *took sides against their own government*. When the Indians had murdered men, women, and children on our southern border, and Gen. Jackson recommended war for their protection, your party, with a few honorable exceptions, took

sides *against their own government*. When, in that war, Gen. Taylor, recommended the use of bloodhounds to hunt up the Indians in their lairs, you cried "down with him and Mr. Van Buren, for this wanton, wicked and unchristian warfare;" but now *this very bloodhound adviser* is lauded to the skies as "the greatest and the best." When we were on the verge of war with Great Britain for Oregon, you took sides with England on the question of title, and *forced your own government to a compromise*, which you now say it was base and cowardly in Polk to have made. When it was proposed to strengthen and enlarge our own country by the free and voluntary annexation of Texas, you took sides *against your own government*, and contended that it would be *downright robbery on Mexico*, thereby as good as sending word to Mexico to stand out for it and Heaven would sustain her in the claim. And when war did come, and our country was actually *invaded* and our people murdered *on our own soil*, they took sides *against their own government*, and, what is still worse, they continue yet so to take sides, against all the light and evidence which truth and history, with all their power and effulgence, can shed upon the subject. History has recorded these high, portentous facts, and it is with a heart full of sorrow and indignation that I recite its burning pages.

Gov. Jones prefers another charge against Gen. Cass, to which I wish now briefly to reply. He warns you against him as a northern man, whom you cannot trust on the great questions growing out of our peculiar southern institution. Sir, I challenge proudly a comparison of candidates in this respect. You call on your's for his opinions on the Wilmot Proviso. He shakes his head in awful and ominous silence. When called on to the north, in one of your speeches, to say how Gen. Taylor is on that great question, you frankly admit that you do not know. Others, with better opportunities, declare that he is against any further extension of slavery, and that he would not veto the Wilmot Proviso. Caleb B. Smith, member of Congress, says he is with the north on that subject; Mr. Ewing, of Ohio, says he is with the north; King and Ashman, members of Congress from Massachusetts, say so; Coalter, from New Hampshire, and Trueman Smith, from Connecticut,

say so ; and hundreds of others assert it with a boldness and confidence which seems to be founded on actual knowledge. Now, sir, if Gen. Taylor were right on that subject, would he shake his head at you ; would he put his finger on his lips ; would he leave his friend Gov. Jones to grope his way here through the State of Tennessee, unable to say how his candidate is on the great question of the age—a question on which the continuance and permanence of this Union may depend ? When I look upon you, sir, every day, panting and laboring under this load, I cannot but think of St. Paul when he stood on Mars' Hill and exclaimed, “ Ye men of Athens ! I perceive that in all things ye are too superstitious. For as I passed by and beheld your devotions, I found an altar with this inscription : ‘ To the Unknown God.’ ” Yes, sir, I see your inscriptions every day to the unknown god whom you ignorantly worship. You pray to him, but he will not answer you ; you call upon him, but he will not unveil himself to you, on no one subject, in no one particular, in no form, nor shape, nor manner. He will not thunder to you from the mountain, nor blaze before you in a burning bush—all is doubt, and mystery, and uncertainty.

But, sir, how is it on the other side ? Gen. Cass leaving the strong side comes over to the weak one ; giving up early and hasty impressions, he follows the deep and constitutional convictions of his mind, and boldly declares that the south is right on this great question, and that he will rise or fall with her upon it. What is that the south is needing in this trying and critical moment ? Not friends in the south, for if the whole south stood as one man, (Gen. Taylor and all,) still she would have a majority of forty against her. She, therefore, needs friends in the north—some strong man, with strong friends, who will stand by her. Such a man is Lewis Cass, and the friends, those who stand by him in this election. With him and them as her allies, the dark clouds that now hang over her may be dispelled, and our country start afresh in a new career of glory and of greatness.

But with what sort of grace, said Gov. Brown, can our adversaries object to the northern residence of Gen. Cass ? Look to your own ticket for Vice President. Compare it with ours—

Butler and Fillmore; both in Congress for years together. Butler true as steel to the south on every occasion; Fillmore recording, on many occasions, the most fatal votes to her safety and her interest. I do not hesitate this day to declare that neither Adams, nor Slade, nor Giddings, have ever recorded stronger votes against you. Out of a multitude, I will give you one that stamps him indelibly as one of your worst and greatest enemies. You may vote for him if you choose, but you shall not do so without knowing that you place in your Senate Chamber a man that may have to give the casting vote on your nearest and dearest interests, and who would as surely give it against you as you place him in the office.

In 1838, Mr. Fillmore, with Mr. Adams and others, voted *against* the following resolution: "Congress, in the exercise of its acknowledged powers, has no right to discriminate between the institutions of one portion of the States and another, with the view of abolishing the one and promoting the other." Here is a vote, (among many others,) about which there can be no mistake. He expressly declares, that Congress has the right to discriminate against your slave property, and that too, with the view of abolishing it. It is the very *essence* or *marrow* of abolition itself. No sophistry can explain it away—no argument can justify or defend it. It stands out in bold and monstrous relief; it looks every man of the south right in the face, and bids him with a defiance to vote for Millard Fillmore *at his peril!* And peril it you may, but you shall not have it to say that I did not warn you against the murderous deed. When this man shall have been elected; when he shall have given the casting vote against you in the Senate; when the news shall fall upon you like the sound of a fire-bell at night; when the fires of fanaticism and of insurrection shall have united their hellish blaze; when your hearthstones shall be blackened, and your altars stained with the blood of your own household, say not that Aaron V. Brown was an unfaithful sentinel on the watchtowers of liberty.

But I am admonished that my allotted time has nearly expired. I can only appeal to you to pause, and to pause long, before you call a *mere military man*—with no experience, with no opinions yet formed or matured, or if matured, who has not

and will not make a disclosure of them—to the Presidency of this great republic. There can be no necessity for so rash and, until now, so unprecedented an attempt. For more than twenty years our government, with but a single exception, has been in democratic hands, and has advanced in all the elements of national greatness with the most astonishing rapidity. There can be no necessity to turn out the old and long tried democratic pilots who have steered the great vessel of State. The new ones proposed are untried and unpractised—they never looked on her compass nor touched her helm in all their lives. Four years ago, when the good old ship sailed out, you were confidently told that she never would return—that she would be driven upon the rocks, and shoals, and quicksands, and finally be

“In the deep bosom of the ocean buried.”

But, thank God ! yonder she comes, with all her sails set, riding gallantly into port ! All I ask of you before you make this great change is, to go down with me and examine the state and condition of the good old vessel of State. Look at her capacious and noble hull—her towering masts, peering upward toward the clouds—her everlasting timbers, bidding defiance to the waves and the tempest. Walk about her mighty bulwarks—turn toward her mast-head, and gaze upon the stars and stripes that have carried your name, your fame, your power, over all the habitable globe—four more stars than you ever saw shine there before. But all these relate to the outside, the mere exterior of the noble vessel : what of her cargo ? It is precious and priceless. Our commerce ? Under the influence of revenue duties only, it is larger than it ever was before. Our agriculture ? It has fed half the starving nations of Europe. Our navigation ? Boundless as the oceans of the earth. Our mechanical arts and sciences ? They have filled the world with astonishment. But tell us—tell us, what of the Union, the ark of our political salvation ? Safely brought home to you, brighter and stronger than ever. What of the constitution ? Brought back, too, sound and unbroken. Our civil and religious liberties, what of them ? Here they are, pure and inviolate as when they were first baptised in the blood of the revolution. What patriotic voice is not ready to exclaim, then all is well ! all is well !

## S P E E C H

*Of Gov. Aaron V. Brown, on the issues of the Presidential  
Canvass, delivered at Columbia, August, 6, 1852.*

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FELLOW CITIZENS:—If the departed spirits of that noble race of men who first settled this country were permitted to revisit the earth, with what astonishment would they behold what is now transpiring amongst us! They lived in the days of Jefferson and Madison; they saw them, heard them, and fought with them the great battle against federalism in 1798 and 1801. From their hallowed lips they had received the sacred doctrines of the Constitution, that every State should be equal, and every individual protected in life, liberty and property.

With what amazement would they now learn that since their departure, some strange and undefined power had been discovered in our government *higher* than the Constitution!—that in fact abrogates that instrument, with all its compromises and guarantees! A power that claims the right to demolish nine hundred millions of southern property at a single blow, and thus to reduce at once a whole people to beggary and want.

With what further amazement would they behold the fact, that a party holding such dangerous doctrines, had grown from a mere speck, a cloud no bigger than a man's hand, now to be so strong as to lay hold on one of the political parties of the country, and dictate to it both a creed and a candidate! I repeat, both a creed and a candidate! It is to demonstrate this great fact, that I am here to-day. To demonstrate it, not to the whigs, not to the democrats, but to candid and impartial men of all parties.

That dark power, whose deadly influences I propose to trace,

is neither whig nor democratic. It has risen up in spite of them both, and would plant its iron heel on the neck of the one as soon as of the other. The abolition party is exotic in its origin, and took its rise in the bigotry and fanaticism of the old world. In the short period of a single generation, it overawed the British Parliament, and demolished the whole system of West India slavery. It compelled the provisional government of France, no later than 1848, to abolish it in her colonies, giving to her outraged owners only two months for preparation. Denmark and Sweden have followed in the same career. Nearly one million and a half of slaves have been liberated against the will of their owners under European agitation. Sir Robert Peel, the greatest of England's modern statesmen, looking at these great and speedy results, has expressed the belief "that the doom of slavery is sealed ; that it cannot long survive ; that it must, at no remote period, be extinguished." Such are the signs and warnings of the old world—what are they in our own country ?

Innumerable societies are scattered over the States of the North. The great basis on which they are founded is this : "We hold slavery to be an evil *now*, and of course must be emancipated *now*. If the thief (say they) be found with stolen property, he must relinquish it *at once*. To hold the colored man in vassalage, must *ere long* break up the fountains of the great deep, and unsheathe the sword of vengeance, revolution and death." Such is the fundamental creed and foundation of the abolition party : universal emancipation, or vengeance, revolution and death ! Such is their creed : what has been their progress ? They have overawed most of the public men of the North, and cut off the heads of such as Fillmore and Webster, who ventured to demur to their unconstitutional demands. They have entered the legislatures of nearly every northern State, and tied up the hands of their senators by the most positive instructions. They have forced their way into the halls of Congress, breaking down the 21st rule, the only barrier that could be erected by the wise men of the South. They have broken the churches asunder, because they would not walk with the slaveholder even in the road to heaven. They have measured arms with the government itself on the fugitive

slave bill, bidding defiance to its marshals, imprisoning the master who claimed his slave, or closing the scene, as at Christiana, in murder and blood.

It was at a period when the abolitionists had achieved so many triumphs, and were flushed with so many victories, that the whig and democratic parties assembled at Baltimore. The selection of candidates was a matter of no peculiar interest to either, so far as it related to the old issues which had originally divided them. They were considered either as obsolete, or were permitted to slumber beneath the intense and all-absorbing question of slavery. Not a whig, nor a democratic delegate was known of, who left the South, but with the great master-passion of his soul, not to nominate any candidate who was not true to the rights of the South—true to the Constitution, and true to the fugitive slave bill founded on the Constitution. The democratic party knew no better mode of ascertaining the sentiments of their candidates than to address letters to them, asking for a full *public* declaration of their views. They all declared that they would veto any bill proposing a repeal of the fugitive slave law. General Pierce was not a candidate. He had refused to permit his friends, either in New Hampshire or in the convention, to present his name in that light. He was not at home when the letter of Captain Scott was received. He was absent with a sick family, and never expected his name to be used in that connection. But he had letters there addressed to his New Hampshire friends, declaring that “if the compromise measures are not to be substantially and firmly maintained, the plain rights secured by the Constitution will be trampled in the dust” The moment he said the fugitive slave bill was founded on the *Constitution*, and secured *rights* under it, there is no tyro in America who does not know that, under the democratic creed, that is equivalent to a declaration that he would veto its repeal. So that it may be safely averred, that every body who had been spoken of as likely to be presented, was there either by letter expressly, or by necessary and obvious consequence, declaring that they would veto all attempts at its repeal. With all their candidates breathing such noble sentiments, no difficulty could be experienced in the selection. Cass, Buchanan, Douglass,

Marcy and others, had their friends who for a long time were unwilling to give them up. Virginia at last, to end the strife of friends, not of foes, led off for Franklin Pierce. State after State followed her example, until he was made the nominee by general acclamation. Nor was there the slightest difficulty about our platform. The public declarations, the known and recorded sentiments of every candidate, or person spoken of, made *that* an easy work. No abolitionists were there, polluting our councils or resisting our platform. A few that had once been known as freesoilers, cheerfully abandoned the heresy. They returned to their democratic allegiance, bringing with them "fruits meet for repentance," a willingness and determination to stand by the execution of the fugitive slave bill, as well as all other parts of the compromise. Here is the great difference on this point between the two conventions—we received only the penitent, who renounced his transgressions; whilst they took them as they came, with all their sins blooming upon them, voting against their platform and bidding defiance to them in their teeth.

Our platform was read clearly and distinctly by Mr. French, in my opinion the best reading clerk in America. He paused at the close of every resolution. The slavery one he read twice, and twice did the shouts of approval ascend from all parts of the spacious hall. There was no leaving of members, for the convention, at the moment of its adoption, was almost crowded to suffocation.

Let us turn now with every degree of fairness to the proceedings of the whig convention. I grant to the whigs of the south an equal but not a greater devotion to the compromise—an equal but not a greater determination to maintain the rights of the south against the dark and demon spirit of fanaticism. They ought to have. They have as much, I think more property at stake than we have. They have homes to be desolated and families whose peace, safety and repose are as dear to them as ours can be to us. But too intent upon a mere party triumph, they took no precautions as we did to purge their convention—to drive the abolitionists from it. They put no interrogatories to their candidates as we did. Had they done so Mr. Fillmore would have answered, I will main-

tain the fugitive slave law as I have done through my administration. Mr. Webster would have answered, I too will maintain it as I have done as one of Mr. Fillmore's cabinet. What would Gen. Scott have answered? Why, "that I will not answer." Such a response would have turned him and all his abolition supporters out of the convention. This would have purified the party and left it standing as of yore on a high national platform. But suppose Gen. Scott had answered publicly that like Fillmore and Webster he too would maintain and execute the fugitive slave law. Why then Gen. Scott would have stood in high and honorable rivalry for the nomination, whilst *the abolitionists would have gone out*. They would have said to themselves, "What do we do here? Fillmore is against us, Webster is against us, and now Scott, from whom we expected better things, has also come out against us. We must withdraw, hold a convention of our own and flash the standard of Wm. H. Seward in the face of our foes, whig and democratic." I know it is a great outrage both against fact and probability even to *suppose* that Gen. Scott would have answered like Fillmore and Webster in favor of maintaining the fugitive slave law. He was tried upon that point in another way equally binding and impressive. Long before the convention he received a letter from one of his fellow-citizens asking him to give his opinions publicly in favor of that measure: his answer was, I will not. A Senator from Tennessee on the sabbath day went to him and desired him to come out: his answer was again substantially, I will not. He gave this trisyllabic response to ever body and on all occasions. Sirs, he might have better said to Governor Jones, "I cannot come out—don't you see how I am situated—don't you see that it is the abolition legislatures that have nominated me—don't you see that all the abolition papers have my name flying at their head? Don't you see by the vote even yesterday that the sixty-six friends of Mr. Seward who voted against the platform would instantly desert me and leave the convention? Why my dear Governor you are not really up to these things. I don't want them to go out, I want them to stay in. If they stay I get the nomination—if they go out I lose it.

What signifies the purification of the whig party if I lose the presidency."

Sirs, I must not elaborate. I must pass on to the closing scene of this nomination. For fifty ballots the friends of Fillmore stood firm, the friends of Webster stood firm, and the south began to feel some assurance of her safety. The hope was delusive. The hour was come, when according to many signs and secret whisperings through the convention, when enough of Tennessee would desert Mr. Fillmore and go over to General Scott to secure his nomination. Yes, the hour had come and the deed was done. Instantly the sixty-six abolitionists who voted against the platform, who trampled upon it and scorned it, raised the shout of exultation. Seward himself issued his circular to them congratulating them "that in voting for Scott, they had preserved fidelity to him and to their sacred principles of freedom and toleration." What did Seward mean in this exulting congratulation? Why should they be faithful to Scott? Because he had been faithful to them in not coming out publicly against them as Fillmore and Webster had done. How had they been faithful to their principles of freedom and toleration? By voting against the fugitive slave bill as put down in the platform. Here is the true key to unlock the secret connection between the abolition party and Gen. Scott. He needed their votes to outnumber Mr. Fillmore and Mr. Webster in the convention, and they needed his great name and reputation to drag them upward to the level of one of the regular national parties of the nation. Sirs, this connection of facts ought to make the blood curdle in your veins. It tells you, I fear, in the language of Sir Robert Peel, that your doom is sealed!

Do you ask how the nomination and election of Gen. Scott can seal the doom of the south? Hear me silently and thoughtfully and I will tell you. Whose candidate would Millard Fillmore have been? The candidate of the southern whigs. Why? Because a majority of his friends were such. Whose candidate would Daniel Webster have been? Of the northern whigs. Why? Because a majority of his friends were such. Whose candidate is Gen. Scott? Of the abolitionists and freesoilers. Why? Because a majority of his friends were

abolitionists and freesoilers. Without them he could not have been the candidate, but with them he is. He had one hundred and thirty-one votes, sixty-six of these, being a majority, voted against the platform even emasculated as it was. It was to these sixty-six, that Seward addressed the circular letter of congratulation, that they had preserved their sacred principles of freedom and toleration. Thus it is that if there is truth in records and power in logic, he is the abolitionist and freesoil candidate.

Now what follows this great fact? That you have lifted up and given rank and importance to this dangerous party. In social life he who marries a woman lifts her up at once to his own rank and condition. So Gen. Scott having allied himself to this party, comes up with it leaning on his arm, and demands its recognition as one of the great and respectable parties of the country. The South may protest against it. She may protest ever so solemnly; but amid the war plumes of the soldier and the cunning sophistry of those who have solemnized the unholy banns, she may be lulled into an acquiescence, which must prove to her fatal as the sleep of death! It is argued that, notwithstanding all these facts poisoning the very fountain of his nomination, that Gen. Scott is in fact a friend to the South, with no dangerous affinities for the freesoilers and abolitionists. I deny it; every word of it. They have not given him this nomination without cause. He has for years been bidding for the Presidency—to the anti-Masons—to the native American party against foreigners; and to no faction and to no party has he paid court more assiduously than to the abolitionists and freesoilers. Look to the great turning point of this slavery agitation. So long as their societies were confined in their labors to the North, they were harmless. Their travelling lecturers and inflammatory publications, could exert but little influence over the nation at large. Hence the determination was formed, to enlarge the sphere of their operations by gaining admittance in the Halls of Congress. Hear their own opinions of the importance of getting there: "Before slavery can be abolished there must be a discussion of the whole subject on the floors of both houses of Congress. All the arguments with which abolitionists have flooded the North would

then be brought forward, to prove the intrinsic iniquity, the cruelty, the impolicy of slaveholding. A thorough discussion of this whole subject in the halls of our national legislature, would be equal to a discussion in the legislature of every slaveholding State in the Union. The act of abolition being done, the moral influence would pierce the heart of the whole system. It would pronounce and sign its death warrant. It would be the solemn verdict of the nation decreeing the annihilation of this dark abomination. It would write in letters of flashing fire over the gateway of the national capitol, 'no admittance for slavery.' The whole system would be thus *outlawed and branded* with ignominy, consigned to *execration* and ultimate destruction."

The South saw this great turning point in their fate. They saw Mr. Adams with all his hatred for the South, step forward as their champion, and inviting them to come forward with their petitions. They did come by hundreds and thousands. Mr. Adams demanded that they should be treated in all respects like other petitions—that they should be received should be printed, should be referred to a committee and reported upon and debated. Nothing less than this would satisfy him. The South insisted that to do all this would be ruinous to her safety and her property. That these inflammatory petitions and speeches would be sent all over the slave States, and be read by the midnight torch on their plantations, leading to insurrections with all their attendant horrors. For the sake of peace, for the sake of this Union, we yielded to the *reception* of the petitions—that the mover should state their contents, and that then they should be laid on the table, (equivalent to a rejection,) without being printed, without reference and without debate. Thus the parties took their positions. The struggle was intense. The amount at stake was large, being no less than nine hundred millions of property and the safety and repose of every southern family. One northern man after another deserted us and went over to Mr. Adams. But there was one northern man who did not and would not desert us. True as steel and with a heart as big as the constitution he stood by us to the last. That man was General Franklin Pierce. For that deed alone, the South owes him a

debt of everlasting gratitude. Day after day, in both houses of Congress, he stood by us, speaking for us, and voting with us, against John Quincy Adams, through that arduous struggle. Do not read to me old rusty abolition newspapers: you need not tell me what this or that poorly informed individual has said against it. I know what I say—for I both saw and heard him. Senator Henderson, a whig from Mississippi, sat by him and says that he is the truest man to the south he ever saw. Besides, sirs, look to the Journals of Congress. I have all the pages here and will give copies to any body to inspect them by. They crush—they annihilate all your lying newspapers and your drunken or prejudiced certifiers who say that Franklin Pierce was unfaithful to the constitution or the rights of the south. But how was it with Gen. Scott? He was in the regular army, a soldier by profession, and need not have taken sides at all. But ever restless and ambitious he must step forward into the arena and throw down his sword and influence at the feet and the service of John Quincy Adams. He threw them down against the land of his birth, "his own native land." Open his own life now carried about by all his advocates and there read his letters contending that all these petitions should be received and referred and treated in all respects like all other cases.

This was one of the deeds, the fatal deeds, that attracted the abolitionists so strongly to him. Let me present you to another. "I am persuaded," says he in one of his letters, "that it is a high moral obligation of masters and slaveholding States to employ all the means not incompatible with the safety of both colors to ameliorate slavery even to its extermination." How different the sentiment attributed to Pierce and which is common among all northern men, and frequent among southern ones, that slavery is a social and political evil. *A social, not a moral evil*—a social one is supposed to affect society injuriously, but still being guaranteed by the constitution must be sustained with fidelity and honor. Not so with Scott. With him it is a great *moral evil*—a leprosy on the *conscience* of the master, which should not only be ameliorated but actually exterminated from the land. The *master* must do it—the State must do it—and nothing must stop them but the

*safety* of the two colors. The idea of constitutional right and guarantee of property never once enters into his calculation. What is this but the sentiments and almost the very language of the abolition party? This is the second cord that bound them to him.

The third one is, that during the whole discussion and controversy about the compromise questions, when parties were almost engaged in mortal combat and when the Union was reeling and tottering under the mighty conflict, when Cass, and Calhoun, and Buchanan, and Clay, and Webster, and Fillmore, boldly stept forward to rebuke the fanatics of the north and to restrain the too much exasperated sons of the south, Winfield Scott looked calmly on and failed to say one word or to write one line *publicly* denouncing their fanatic aggressions—looked calmly on, when great mobs in our cities were putting all laws at defiance, imprisoning our southern friends for demanding their own property; nay more, when they were literally murdered in open day, with the law of Congress in the one hand and the constitution of their country in the other—looked calmly on without throwing the influence of his name and his fame *publicly* in favor of the fugitive slave law and the rights of the south under it. Thus it was, that previous to his nomination, Gen. Scott had drawn the abolitionists to him by triple cords—cords of sympathy and gratitude.

How has he patronized and encouraged them since? In his letter to Mr. Archer (the breeches pocket letter of Mr. Botts,) he said, "In my letter of acceptance I shall give my views on the compromise in terms at least as strong as those I read to you the other day." According to Gov. Jones' account he said he would express his approbation of the measures of the compromise or die. Well, all this is flourishing boldly enough. But did he come out in his letter of acceptance at all? In any terms, strong or weak? Did he utter one word for or against the compromise? Not one, not one! He simply said, "I accept the nomination with the resolutions annexed." Gen. Pierce said, "I accept the nomination upon the platform adopted by the convention, *because* the principles it embraces command the *approbation of my judgment*, and with which there has been no word or act of my life in conflict."

Now, why did not Gen. Scott say something like that? Forgetting his letter to Archer and his declaration or promise to Jones, he sends in a cold and non-committal acceptance "with the resolutions annexed."

And what sort of a platform, I pray you, did their resolutions make? Not that one which Fillmore's friends had prepared in caucus—not that one that Webster's friends had solemnly agreed to; but that one which the committee, Gov. Johnston being one of its members, had prepared in lieu of it, leaving out the very life and soul of the document. The democratic platform had declared against the agitation of *any and all* slavery questions; so had Fillmore and Webster's. But the power of the abolition influence emasculated it and reported simply declaring that the *specific* questions settled by the compromise should be acquiesced in: thus leaving all others, the abolition of slavery in the forts, arsenals and other public establishments of the United States and the transportation of slaves from one State to another, still to be agitated both in and out of Congress. Thus is sustained one of my proposition that they have dictated *a creed* to the whig party. What further assurances has he been pleased to give them since his nomination? The letter of Senator Wade, as yet uncontradicted, informs us "that he had just had a conversation with Gen. Scott (in July) in which he declared that he would sooner cut off his right hand than lend it to the support of slavery. What! not lend your right arm to support it when the constitution declares you shall do it? Not lend your right arm to support it when a dominant majority shall attempt to cleave it down by repealing the fugitive slave law: or when they shall pass a law to discharge on *habeas corpus*, in the most summary manner, any slave in this country? Would Gen. Scott not deign to stretch forth his right hand and by seizing hold on the veto power, save the constitution from violation and the rights of the south from destruction? No he would not. He need not have so declared to Senator Wade. I care not whether he ever spoke to that Senator or not. Long ago he proclaimed the doctrine, that there ought to be no veto arresting the law when it passed a second time by a majority. Who ever heard of such a veto as that? Why boys ought to know that practi-

eally it was no veto at all. That letter is enough to show the south her certain doom, if Gen. Scott should be elected. The north has a majority now of more than forty votes—a majority that is rapidly augmented by every apportionment. Under this doctrine nothing is left to stay the march of abolitionists and freesoilers to universal domination. This is not only the doctrine of Gen. Scott, but of his friends who support him in this State. Gov. Jones in one of his published speeches goes for the abolition of the veto power altogether, whilst General Haskell is reported in the New York Herald in one of his Taylor speeches as saying that “although a slaveholder, if Zachary Taylor pledged himself to veto the Wilmot proviso, he (Haskell) would desert his standard.”

Here let every southern State and every slaveholder in this country come to a dead pause for a few moments. Let us look around us and understand our condition. The opinion of foreign countries is pressing hard upon us. The opinion of half the States here at home, is pressing hard upon us—a dead majority of at least forty in Congress is against us. Now what safety or hope of safety have we, but in the Presidential veto? If that be denied to us our property, the property of whigs as well as democrats, must be swept from us. Gen. Scott maintains that there should be no veto against a final majority. Gov. Jones says it ought to be obliterated altogether. Gen. Haskell would not have it exercised to save us from the Wilmot proviso, and of course not to prevent a repeal of the fugitive slave law. Thus we are left naked, and exposed to the will of the majority, with no shelter to fly to, no arm to save us, and General Scott boldly telling us that he would *cut off* his arm before he would extend it for our relief!

It is vain to tell me that Gen. Scott has since his nomination declared his hearty approval of the compromise measures to many private individuals. Nobody wants private testimonials on vital questions like these. He may have too many breeches pocket letters, too many private conversations like the one with Senator Wade. These private conversations are too well calculated to make him “all things to all men.” No, we wanted *public* committals, public declarations, that would have driven bad and dangerous men away from your convention,

and have relieved the South from all danger and apprehension as to the candidate of either party.

Nor will it do to say that silence before the election or a little equivocation since is *only a matter of policy* in the election, and that when he is elected he will rise superior to all malign influences. If he be a man he cannot; if an honest man he will not. When abolitionists shall come to him at the moment when he may be forming his cabinet, and demand high places under his administration, how can he, how ought he to refuse them? They will say, without us you could not have gotten the nomination. Gen. Scott must reply, I know it. They will further say, without us you could not have been elected; he must reply, I know it. We have therefore breathed into your nostrils the very breath of your life. Without us you were nothing, but with us you have become the President. You cannot postpone our demands in favor of the democrats, for you have made a clean sweep of them; nor in favor of Millard Fillmore, for you remember his letter to the convention to go for Webster, and save the whig party; nor in favor of Webster, for between you and him, as between Lazarus and Dives, there is an impassable gulf. We, therefore, demand it of you, that you advance us high in patronage and favor. Can Gen. Scott refuse them? Mr. Gentry says he will not. Christopher H. Williams says he will not. Stephens, Toombs and Cabell, and a long list of the best and truest members of the whig party, all say, that with the nomination of Gen. Scott, the reign of the whig party will end, and that of Wm. H. Seward and Horace Greeley will begin.

But I must pass away from this branch of the subject. I have lingered long enough around the poisoned fountain of this nomination. I assume another ground, equally as fatal to the election of Gen. Scott. He is not *qualified* for the exalted station. He has been a soldier by profession all his life; a brilliant and successful one; but he has no experience in civil affairs. What does he know from study and reflection about the constitution, laws and treaties, of this country? Where has he ever exhibited the slightest attainments in jurisprudence and civil government? His friends and electors have been asked the question more than an hundred times. What do

they answer? Why, that he has written a book. Aye, but what was it about? Military tactics! But he was sent to Europe. Aye, but what was his errand? To inspect military fortifications! But he was ordered to Charleston by General Jackson, charged with delicate and important duties. Aye, but he was to take no step except what related to the immediate defence of the port, without the order of the collector or District Attorney! So on the Maine boundary—so every where. He has never been employed or acquitted himself in any civil capacity in all his life, without having somebody to overlook and restrain him.

But I am not content to overturn the vain pretences of his advocates. I carry the war into their own camp, and here to-day undertake to show affirmatively, that he has no qualifications for civil affairs. He has made his own political record. He has made it by his letters and addresses. He belonged to the army, and might have said nothing. But, being vain and ambitious, he sought notoriety by throwing himself through his letters before the public eye in moments of high political excitement. In what one of these did he not commit some great blunder, injurious to his own fame and mortifying to his friends? Take for example his letter on Naturalization in 1841: He says he was fired with indignation against foreigners, and sat down and prepared an address with the view of rallying an American party against them. That he fully concurred in the Philadelphia move against foreigners, and was inclined to repeal the Naturalization laws altogether, and shut them out forever from the enjoyment of our free institutions. Who wants to vote for him for *that* letter? Its folly was so great that he has been half denying and apologizing for it ever since! Take now another case. He came out in great flourish in favor of the celebrated bankrupt bill. But before the General could get much attention drawn to his letter, the measure had become odious, and down went the bankrupt bill and General Scott's letter together! Let us have another letter. In 1843, when the great minds of America were discussing the question about slavery under the constitution, he again thrusts forward his opinions, and declares in favor of the power of Congress to abolish slavery in the District of Columbia—that

Congress ought to receive, refer and report on abolition petitions! Let us have another one of his letters. At a period when his whole party was clamoring for a curtailment of executive power and patronage, General Scott comes to the grave and profound conclusion, that they are all wrong, that the President was not far enough removed from the people—that he ought to be released from such vulgar liabilities, and therefore should be elected for six years, rather than for four. There is another egregious folly in General Scott's civil career, which I am sure you must have anticipated, I mean his annexation of Canada, New Brunswick and Nova Scotia. Territory large enough for thirty or forty new States, composed of many millions of French and English population, monarchists and abolitionists, to crush and grind us and our property to powder! Horror struck at the idea of annexing Texas, that did not hold one thousand persons in it, except our countrymen and kindred, accustomed to our laws, and attached to our form of government; but yet willing to bring in Canada, crowded with a population that hated all republics, and scorned our free institutions!

Here then, is a full map of Gen. Scott's attempts to connect himself with the civil policy of the country. It is constructed out of his own materials:

1st. His Naturalization letter, in which he lays the foundation for that native American party, from which has emanated all the persecutions against foreigners ever since.

2d. His letter in favor of the now universally condemned bankrupt bill.

3rd. His letter sustaining John Quincy Adams in bringing the subject of abolition into the Congress of the United States.

4th. His letter maintaining that although Congress could not interfere with slavery in the States, she could abolish it in the District of Columbia.

5th. His letter in favor of the annexation of Canada, New Brunswick and Nova Scotia.

6th. His letter making our government more aristocratic, by electing the President for six instead of four years.

This map is complete. It delineates every attempt, six in

all, to connect himself at any time with the civil policy of his country. Every one of them was a blunder, a failure, an abortion. Taken one by one, we must disapprove and condemn them: taken altogether, they force us to the conclusion, that he is not qualified for so high an office. The country is full to overflowing of men a thousand times better qualified. Every average county and city in the Union could furnish a candidate with higher *civil* qualifications.

There is no uncharitableness in this expression of opinion. The chief men of the whig synagogue have gone before me. Horace Greeley, who next to Seward, is his ablest supporter, is reported to have said, "that Gen. Scott is a vain, conceited coxcomb of a man. His brains (all that he has) are in his epaulettes, and if he should be elected President, he would tear the whig party to tatters in less than six months." A distinguished leader in East Tennessee does not hesitate to proclaim, "that he has vanity enough to damn seven successive whig administrations." Gen. Zollicoffer, of the Republican Banner, who was one of the three whig delegates who deserted from Fillmore, and went over to Scott, said, wrote and published of and concerning the aforesaid Winfield Scott, that he had no high opinion of his "*very sound discretion or common sense*." What! destitute of common sense? If so, no other sort of sense will be of any avail. Without common sense as the great basis of human intellect, all else is useless and even dangerous. The maniac may have every other sort but common sense, and your mere man of genius and imagination may be utterly useless for all the practical purposes of human life. No confidence in his common sense!—vanity enough to damn seven successive whig administrations!—all his brains in his epaulettes, and in six months he would tear the whig party to tatters! Well, if these are the opinions of the great high priests of the Scott party, I know you will pardon me for simply maintaining that he is not qualified to fill the exalted office and to perform the complicated and arduous duties of President of the United States.

But I carry this question of qualification far beyond his want of political knowledge and experience in civil affairs. I maintain that his education, temper and disposition, disqualify

him altogether to fill the office. His education has been military ; he has been in the regular army from his youth up. Military life has been with him a trade—a calling—the main, and in fact his only pursuit in life. The result is that he is proud and dictatorial. Impatient under opposition, he is ready to resolve every thing into a quarrel. Hence it is that his whole life has been made up of quarrels and complaints, with any body and against every body. In early life he quarrelled with Macomb about priority of rank. He quarrelled with the then administration, and could not be quieted but by the severest reprimand. He quarrelled with General Gaines, and never ceased his enmity until the grave closed over the remains of that gallant old soldier. He quarrelled with General Jackson, and refused to say, with the frankness of a soldier, whether he was the author of certain slanders against him. He quarrelled with De Witt Clinton in the same case, and invited him to mortal combat when he knew his oath of office forbade its acceptance. and when he had declined to invite Gen. Jackson to the same wager of battle for a *much* greater offence. In the Florida war he quarrelled with the people of that territory, and denounced them, according to our recollection, in his order No. 48, as cowards and afraid of an Indian behind every bush. In the Mexican war, his whole career was marked with fuss, quarrels and feathers.

He quarrelled with Polk for not sending him to Mexico, and when he did send him, he quarrelled with him for that. He quarrelled with Marcy for not sustaining him in the Quarter Master's Department, when he had the Quarter Master General with him at New Orleans and Vera Cruz with unlimited authority to do anything and everything he might stand in need of. He quarrelled with the President for recalling him from Mexico when it was done at his own written request. He quarrelled with the Secretary for not allowing him to make promotions of his friends in the army over equally meritorious officers, contrary to the express provisions of the army regulations. He quarrelled with and tried to disgrace Col. Harney, "the bravest of the brave," for no reason under the sun, except that he did not like him. He quarrelled with Generals Worth and Duncan, as gallant and fine officers as ever drew

the breath of life. I say nothing of Gen. Pillow's case. He is my kinsman and I pass that over altogether. But speaking of all the others, I boldly say that he exhibited an overbearing and tyrannical temper that totally unfits him for high command in civil life.

But he was not content merely to quarrel with them—"to show a hasty spark and then be cold again." No, he arrested them, stript them of their command—took away their swords, hacked and battered in many a hard battle, that he might wear the crown of laurels on his own brow. He did every thing to disgrace them in the face of the enemy. Take the case of Gen. Worth as a sample of the rest. How often had he headed his division and charged in the midst of carnage and death up to the cannon's mouth to win a battle, whilst General Scott was afar off in perfect safety, looking through his spy glass, and afterwards wearing the laurels of a victory which Worth had won for him at the risk of his life ! And yet, after all this, he hears read and permits to be transmitted to the United States for publication, the highest praises of himself and the grossest charges against Gen. Worth, which he himself was afterwards compelled to abandon. The case of Duncan, the brave and accomplished Duncan, is another, which might be adduced for the same illustration of Gen. Scott's overbearing character. Arrested and unworded, all they could do was to appeal to their own government for justice. They asked a court of inquiry to investigate the whole case, and when this obvious justice was awarded them, Gen. Scott even quarrelled with the government for that. He complained that he, the accuser, should have to go before the same tribunal with the other officers of his command. I pray you hear the reply of Secretary Marcy to this strange, this proud and aristocratic complaint :

" On what ground of right can you claim to have your case discriminated from theirs ? It is true that you have assumed to be their judge and have pronounced them guilty ; and you complain and repine that the laws of the country do not allow you, their accuser, to institute a tribunal to register your decree. But you are not their rightful judge, although they were your prisoners. Before that court all stand on the same level

and all have equal rights. Though you may have the self satisfying conviction that you are innocent, and they are guilty, the government could act on no such presumption. By becoming the accuser you did not place yourself out of the reach of being accused; and unless you are clothed with the immunity of despotic power, and can claim the benefit of the maxim "that the king can do no wrong," I know not why your conduct, when made the subject of charge, may not be investigated by a court of enquiry. \* \* \* \* If your extraordinary pretensions are to derive any support from your distinguished services, you ought to be mindful that the three accused officers put under arrest by you have like claims for distinguished services. On the pages of impartial history their names and gallant deeds must appear with yours, and no monopolizing claims, nor malignant exclusions will be permitted to rob them of their fair share of the glory won by our gallant army, whilst under your command." There can be no doubt that it was this known incompetency in civil affairs, and his total disqualification in temper and disposition that prompted Mr. Fillmore, when asked by his friends in the midst of the balloting what they should do, to reply, "go for Mr. Webster and save the whig party"—that induced Mr. Clay on his dying bed to advise his son when he should be dead and gone, not to vote for Gen. Scott.

But I leave the chapter of his quarrels with every body and about everything. With such a man for your President what could be expected but the blowing up of cabinets—arrests and court martials by land and by sea—recalls of foreign ambassadors—quarrels and ruptures with foreign governments and the d—l to pay generally!

I now turn to a more pleasing and gratifying duty, the vindication of the democratic party—its policy—its creed and its candidate. Its policy adorns every page of American history. Its triumphs have emblazoned your flag in every land and on every sea. It has carried your name and fame to every part of the habitable globe. Kings have beheld it and trembled. Nations have gazed upon it and rejoiced. But I speak of it now in its more restricted sense as now being practised and carried out on the recent questions of party controversy.

At this very moment the whig party is paying a profound homage to every one of those disputed subjects. They are carrying out in full practice every measure which democracy has established ; making no effort and hardly entertaining a wish to defeat or disturb them. They administer the government without a National Bank. They collect their own revenues by their own officers and we hear nothing of those anticipated evils of the sub-treasury, which were so confidently predicted. The tariff of 1846 is pouring into our coffers the most ample supplies, and but slight and occasional wishes are expressed in favor of its alteration. The vast accessions to our territory are giving new impulses and directions to commerce, and our people are building up magnificent cities on the shore of the Pacific.

In relation to our creed as recently set forth in our convention, it has extorted from our enemies their loftiest eulogiums and silenced the cavils of the most reckless partisans. On the all absorbing topic of the present canvass it proclaims the most faithful adherence to the compromise in general, and insists on the most rigid execution of the fugitive slave bill in particular. In other words, the democratic party of the United States, amid the dangers of the present conflict, stand immovable on the Constitution ; calm, firm, and erect, holding that sacred instrument in the one hand and the farewell address of the sainted Washington in the other. There she stands, and come what may, there she will stand, with undying devotion to liberty, the Constitution and the Union. In taking this noble stand I am proud to know and to aver, that the democracy of Tennessee stood out in advance of all others. We were the first to assemble after the passage of the compromise. We assembled in the southern convention. We dissented from that body on several points, and to show our exact opinions, we presented what was called *the Tennessee platform*. It was the first Union platform ever erected in America. Georgia followed our example. Then Mississippi and several other States. In several instances they almost copied our very words on all the exact sentiments we had adopted. What were those sentiments ? That although the compromise did not award to us all that in our opinion we

were entitled to, yet we would abide by it with that fidelity and honor which had always distinguished the south. We went one step farther. We declared that the north must also abide by it, and substantially that we would not submit to the repeal of the fugitive slave bill. This last, *the whig party would not say*. The whigs of the adjoining States would say it, and did say it, but the whigs of Tennessee would not say it. For saying in our platform that we would not submit to the repeal, they accused us of being *too ultra* and affiliating too much with the *fire eaters* of the south, as they were tauntingly called. We replied, that if we are *too ultra for our rights*, you are *too ultra against them*, and we pointed them day after day to their own brethren of Georgia—of Alabama and Mississippi, below whose platform they had immeasurably fallen. The retort was too powerful and the reference too obvious. It drove them to the wall. Gen. Zollicoffer, who wrote the first platform, resolved to amend and enlarge it in the midst of the canvass. On the ever memorable Monday the 23d day of June, 1851, the Republican Banner (the flag-ship of the party) came out with the declaration, extorted from him by the pressure of the canvass, “that if the fugitive slave bill should be repealed, thus annulling the Constitution, resistance should follow by the whole south united.” This placed, for the first time, both parties on the same platform on the slavery questions. Now, did they come to us, or did we go to them? Let incontrovertible facts, dates and figures answer the question. We constructed our platform in November, 1850. We reaffirmed it in February, 1851, and Gen. Zollicoffer put himself on it and dragged his party after him not until the June following. And yet an impudence so unblushing is not wanting to ask whence this new born zeal for the compromise, and for the fugitive slave bill in particular? After having furnished the facts and dates, I waste no further time in answering a question founded on a perversion of facts so wilful, or an ignorance of them so profound. But the question is sometimes asked in relation to another speech, which I will answer. It is asked whence *my* new born zeal for the fugitive slave bill? My answer is that *my* zeal is as old as the Tennessee platform, and I

have just shown that *that* is the oldest upon record—older than that of any whig creed by many months. That I was the very author of the first declaration written out officially after the compromise was passed, that the fugitive slave bill must be preserved. But how is this, say the whig orators, did you not refuse in your convention speech to rejoice at the passage of the compromise? Did you not say that your heart would sooner break than rejoice? And has dullness become so profound, as not to understand, how an unwillingness to rejoice over the compromise is compatible with a fixed determination to abide by and maintain it? Did the whigs rejoice? Did any body rejoice in the south? None except a very few at the first arrival of the news, and whose rejoicings instantly ceased, when they learned from every letter and every circular, that came from whigs and democrats, as well as from the acts of Congress themselves, that the compromise had been passed, not because it gave us all that the south was entitled to, but because it was the best that they could obtain for us. Among others the eloquent voice of Mr. Clay came booming to his countrymen that the south had lost all—every thing, but the fugitive slave bill and her honor. All else was lost. After that, no man of sense of any party in Tennessee thought of rejoicing over it. All men and all parties here determined to acquiesce and abide by it, but none had the heart (who had a heart) to rejoice over that poor remnant of rights which Mr. Clay informed us had alone been preserved. Does the farmer go home rejoicing, when he has lost in court one half of the lands which had descended to him from his ancestors? Does the soldier rejoice when he has been driven and routed from half the field of battle? No; his victory must be full orbed—the enemy must have been captured or driven from the field before he sings the *Te Deum* of triumph!

Sirs, I begin to take some pains to preserve that convention speech and some others I have made. When I delivered them I had not the vanity to suppose there was much in them, but now that they have become the text book of so many whig orators, I begin to think more favorably of them. Their men of genius refer to them to break, if they

can, their force and power over the public mind. Their men of dullness turn to them to whet their flagging intellects, and when they can think of nothing else to say, with feeble articulation they mutter out something about Governor Brown ! Governor Brown ! Poor fellows ! I can give them speeches, but I cannot furnish them with brains to understand them. Perhaps in after times their children may read them as productions which their fathers had not the patriotism to approve nor the intellect to refute.

Sirs, this personal vindication of myself lies in exact line with the objects I have before me. The platform which I drew and which the democracy of the State twice sanctioned, has been accepted and adopted by the democracy of the nation. The whig party of the south and the Webster portion of the north, have done the same thing in noble rivalry with us to preserve the Constitution and the Union. Remember, I am speaking of that platform which the southern whigs, the friends of Fillmore prepared, not that *lifeless and soulless one* which Governor Johnston's committee reported, shutting the door against the agitation of only one half of the slavery questions, whilst they throw it wide open as to all the others. Thus fortified, endorsed and sustained in my sentiments and opinions on the fugitive slave bill by the democracy of the State, as well as of the nation, and by the southern whigs themselves, in the preparation of their platform, my shield is impenetrable to the feeble shaft that strikes it and then falls harmless at my feet.

Fellow-citizens, my duty is now done as it relates to the nomination of Gen. Scott, the malign influences that effected it, his incompetency in civil affairs, and his unfitness in temper and disposition to fill the exalted office. The more pleasing one remains of inviting your attention to the claims of Gen. Franklin Pierce to your confidence and support. He is descended from a revolutionary patriot and soldier, whose devotion to liberty was attested on the heights of Bunker's Hill. Educated in one of the best institutions of the north, he entered the world ripe in his scholarship. Engaging in the study and

then in the practice of the law, he soon reached an eminence in his profession which no mediocrity of talents could have attained. Thrown early into Congress, he rose rapidly to distinction as one of the most talented and useful supporters of Gen. Jackson's administration. Transferred to the Senate, he exhibited all those high powers of debate that made him the worthy compeer of the illustrious men who then composed that body. I know of no man with whom so justly to compare him as with James K. Polk. Not much differing in age, in industry, in habits of study, in perseverance, in power of debate, in ardent devotion to the principles of the Constitution, and unflinching determination to support them, the resemblance was striking and imposing. Gen. Jackson, great in his intuitive knowledge of men, foresaw his eminence. Mr. Calhoun predicted it, and Mr. Polk, every day identified with him in public labors, expressed the opinion that at some day he would be President of the United States. Gen. Pierce, however, has never been an office-seeker, and has done nothing to bring about the realization of these predictions. He voluntarily resigned the office of Senator. When Mr. Woodbury was appointed to the Supreme Bench of the United States, the appointment was tendered to him to fill his vacancy, but he declined it. He declined the nomination for Governor of New Hampshire, when his election would have been certain. President Polk invited him into his cabinet as Attorney General of the United States, which he also declined, writing that he had resolved never to accept an office which would separate him from his family, except at the call of his country in time of war. That time soon arrived. Like his father before him, he was ever ready to make battle for his country. He volunteered for the Mexican service, and when he reported himself to the President, he tendered to him the commission of Colonel, and afterwards promoted him to that of Brigadier General. It is not my purpose to recite the history of his military service in Mexico. In his march from Vera Cruz to the main army in the interior, in the battles of Contreras, Churubusco, Molino del Rey and Chapultepec, the reports of Generals Scott, Pillow and Worth, bear high and honorable testimony to his gallantry

and good conduct. Still the tongue of slander and detraction has assailed him. The poisoned arrow of defamation had as well be directed against the courage of the Commander-in-Chief as against that of Gen. Pierce. Stationed on the summit of some distant hill, with his spyglass in his hand, there was no danger of being thrown from *his* horse whilst charging the enemy over the craggy and dangerous pedrigal. Yet no cormorant appetite for slander ever charged General Scott with cowardice because he viewed the progress of the battle from positions exempted from danger. Not so with General Pierce. There is no such liberality and sense of justice reserved for him. A Field-Marshal of France could but yesterday be thrown from his horse and be instantly killed—the gallant Ridgely could share the same fate—but it was impossible for the horse of Gen. Pierce to fall; or if he fell, it was impossible that its rider should have been much injured; or if much injured, it is incredible that he should the next day have fainted, in the heat of the action, from the severity of his wounds or bruises! The American people understand too well the motives which prompt to such base and infamous attacks to lend the ear of credulity to the foul insinuation. Gen. Scott himself stands convicted of falsehood, if Gen. Pierce acted not the part of a brave and gallant soldier. But I mean to lay but little stress on the military prowess of either. Mere military attainments, unaccompanied by qualification in civil affairs, to me furnish no passport to the Presidency. Gen. Washington had been a soldier, but with him it had never been a trade, a calling, a lifetime pursuit, as it has been with General Scott. With Washington, his generalship sunk into insignificance when compared with his solid, massy, practical good sense, and his disinterested and lofty patriotism. Gen. Jackson was a *citizen* soldier, with whom arms had been but a mere incident of his life, not his main pursuit. He had been a judge of our highest court, a member of Congress and Senator, exhibiting in every situation civil qualifications of the highest order. So it is with Gen. Pierce. We refer to the fact of his having volunteered in the services of his country and to his gallantry and good conduct in it only to evince his patriotism, whilst we

point to his eminence at the bar, in the halls of Congress, in the Senate of the United States, to attest his high and undoubted civil qualifications. On the life and death question involved in this canvass, every day is developing his devotion to the Constitution, and to our rights under it, which must endear him forever to his countrymen.

Two years ago, in the very heat of the battle, when blow after blow, and crash after crash, seemed to announce the downfall of the republic, John P. Hale, the great leader of the abolitionists, proclaimed in a public speech that he was ready to head an army and to march upon the south to put down slavery. What did Franklin Pierce say to that? He sprung forward like the Numidian tiger, and replied, "You shall first march over my dead body; for I will head an army to oppose you!" Noble sentiment! Heroic declaration! Could old Marion or Sumpter have beat that? Did Gen. Scott ever make for you such a speech as that? Did he ever exhibit such a sublime devotion to us and to the Constitution? No; forat that very moment, he was being nominated by every abolition legislature, and his name flying at the mast-head of every abolition newspaper at the north. Fillmore was trying hard to breast the storm; Webster was putting forth all his mighty power; Pierce was bearding the great lion of the tribe, face to face; but Winfield Scott had not one single word to say publicly in your behalf! Nay, worse than that, he threw his sword, his war plumes, and all his large honors in the scale against you!

There they are yet, and there they will remain until this tragedy shall end. And end it must. I know not when nor how. But when I see so many of my countrymen yet fast asleep in the arms of party—when I see them slumbering on the brink of ruin—when a threat to march large armies down upon them to take away nine hundred millions of their property, can rouse them up to no preparation—when they hesitate to stand by those who are ready to throw their dead bodies between them and danger, I am obliged to have and I do have forebodings as to how this tragedy is to end—that it must end as the creed of abolition declares, in vengeance, revolution and death!

In the language of Mr. Webster, more eloquent and appropriate than any which I can utter, "If that catastrophe shall happen let it have no history. Let the horrible narrative never be written. Let its fate be like the lost book of Livy, which no human eye shall ever read. Or like the missing Pleiad, of which no man can ever know more, than that it is lost and lost forever."

## S P E E C H

*Of Gov. Aaron V. Brown, at the Charleston and Calhoun Mass Meeting, taken from the Knoxville Plebeian, of October 16th, 1852.*

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Gov. A. V. Brown said: In the present canvass the whig party had no candidate for the Presidency. We deplore the fact, because with all its faults and all its errors, it is a thousand-fold better than that dangerous faction which had lately outnumbered them in convention, superseded their favorite candidates, and set up one of their own. He did not blame, he did not reproach them for not having a candidate. He said he knew how hard they *tried* to have one—how carefully they appointed their delegates to the convention, and how cautious they were, in most cases, to guard by specific instructions against the very calamity which had befallen them.

It is somewhere said in the Sacred Writings, continued Gov. Brown, that when the saints of the Lord had assembled together, Satan also appeared amongst them. So it was when the whig party assembled in Baltimore; the abolitionists of the north also appeared in their midst, and boldly demanded the nomination of *their* candidate. That candidate was *Winfield Scott*. The whigs proper refused to accept him. They demanded to know his principles by public avowal. He refused *publicly* to avow them. To bring his whig principles fully and finally to the test, the whigs presented him with their platform of principles, but his friends rejected it with scorn. They spit upon it and trampled it beneath their feet. Thereupon, the whigs proper of the convention presented Millard

Fillmore and Daniel Webster as *their* candidates in opposition to him.

This, said he, is the *first act* in the grand drama. He then enquired of them to tell him, before they had obscured it by any other consideration, whose candidate was Daniel Webster? They would tell him he was the candidate of the northern whigs. Why? Because they brought him forward. Whose candidate was Millard Fillmore? Of the southern whigs. Why? Because they brought him forward. Whose candidate was General Scott? They must say, of the abolitionists. Why? Because they brought him forward—would have nobody else—would divide on nobody else, but stood in firm, unbroken column for him, “first, last, and all the time.”

He then proceeded to the second act in the convention drama. The balloting was about to commence. Look, said he, at the parties. There stood Daniel Webster, surrounded by only twenty-nine of his faithful followers; all the rest had been swept away in that terrible storm of fanaticism which has been sweeping over the States of the north. Close by his side stood Millard Fillmore, surrounded by the whigs of the south, whose rights and property they considered he had generously protected until every northern friend had fled from his standard. There they stood, the only hope and the only candidates of the whig party proper, either north or south.

But who were *they* standing on the opposite side, in marshal array against them? The black flag of abolition waving over them told us too plainly who they were. They were the representatives of the principles of William H. Seward, of Horace Greeley, and Garrison, and of Fred Douglass. They were those who raised great mobs in the cities of Boston and New York, in order to prevent the restoration of southern property. They were those whose hands were yet red with the blood of southern men, murdered at Christiana in open day, for simply demanding their own property under the Constitution. They were those who openly declare in this canvass that the fugitive slave law shall be repealed, and agitation in Congress and out of Congress shall never cease, until every slave in America shall be taken from his lawful master. In the midst of such social incendiaries as these, they saw the tall and portly form

of their candidate, Winfield Scott; not such as he was when proudly standing in the halls of the Montezumas, but like Lucifer, shorn of his celestial beauty, standing amid the fallen spirits of pandemonium.

Such were the candidates, and such the friends who brought them forward and supported them. Day after day, and ballot after ballot, left the parties at the close of the week where they started in the contest. On Monday morning the convention again assembled. The parties, said he, resumed their positions, and preparations began for the last final struggle. But hold! Nine hundred millions of southern property—the peace and safety of every southern family are at stake! Hold, until they ascertain that every southern man is at his post. Call the friends of Daniel Webster. They were there in true and loyal devotion to the Constitution. Call the friends of Millard Fillmore. State after State, said he, answered "Here!" At last Tennessee was called. Nine out of twelve champions responded, "We are here ready for the charge." But where, he asked, were the other three? Call them. Gen. Zollicoffer! Gen. Zollicoffer! No answer comes. Gov. Jones! Gov. Jones! No response was given. It was strange! It looked suspicious! Yonder they were, ranged under the same banner with Seward and Greeley. They had left their nine comrades—they had deserted Mr. Fillmore—they had disobeyed their instructions, and all was lost! One ballot more told the sad story that Mr. Webster and Mr. Fillmore, the only whig candidates before the convention, were defeated; and the long, loud shout of the abolitionists proclaimed that *their* candidate was nominated.

He said, *their* candidate—he was nobody else's candidate. For fifty ballots, not one solitary southern whig, now remembered, voted for him. All were from the north, and from those States most violently opposed to the constitutional rights of the south.

He asked them to tell him if Gen. Scott was brought forward by the abolitionists, and for fifty ballottings was supported by abolitionists alone, how could the going over of three Tennesseeans to that side make him the whig candidate? As delegates, he said, they had no right to desert Mr. Fillmore. They

were under special instructions. No discretionary powers had been given them. If the power of attorney be given to do *one* thing and the agent do another, the act is void and of no effect. To do the thing forbidden is a fraud, which, in every civilized country, would set aside the whole transaction. It was a falsification of the record to say they had a general authority, first to go for Mr. Fillmore, and if they could not get him, then to go for somebody else. Go read the proceedings of the convention, and they would find no such thing intended. Go behind the record, and they would find the whole whig press of the State out for Fillmore, "first, last, and all the time." On the 29th day of May, the Banner proclaimed that "if Gen. Scott does not *write and publish* his committal to the finality of the compromise, we cannot, and will not support him, though nominated by the Whig National Convention" The Banner would not be content with anything he had written and published *before* that time, but he must *thereafter* come out and publish some committal to the finality of the compromise. When those three men deserted Mr. Fillmore, had Gen. Scott written and published any such committal? Gen. Zollicoffer was one of the men who deserted Fillmore, and now he would try him by his own words. On Monday morning, when he and Gov. Jones, and one other, deserted their nine comrades—when they threw down their instructions and went over and took their seats by the side of the immortal sixty-six, who spit upon the platform, *had* Gen. Scott ever written and published any committal to the finality of the compromise? It was a grave question, and he was prepared to prove that he had not. He would call no democratic witness—no anti-Scott witness. No. He would call to the stand Scott's file-leader and bosom friend, Gov. Jones. He had proclaimed it to the world "that he had tried with all his powers of persuasion to get Gen. Scott to write a letter to the convention stating his position on political questions. That he could not help the conviction that his nomination depended on his writing such a letter. But he had got it into his head that he ought not, and would not *write* a letter, and did not write one." There was the proof positive, undeniable. Zollicoffer said, "if he will not write and publish one, we will not support him." Gov. Jones says that "he

would not and did not write one." Yet in the face of this solemn pledge to his brother whigs of the State—in the face of this positive testimony of his bosom friend, Gov. Jones—in the face of the solemn resolution of the other nine delegates never to desert the standard of Mr. Fillmore, he went over to the support of Gen. Scott! There was no escape from this array of proof. It fastened down upon those men their rank and wilful disobedience to the whole whig sentiment of the State, so strong and so undeniably, that nothing could save them but to run up the open flag of rebellion against their party in the State, and to say, "Let Gentry do as he please—let Christopher H. Williams murmur if he dare—let Ephraim H. Foster, Francis B. Fog, Dr. McNairy, Col. Whiteside and all the rest, know that they are mere atoms in the party, which we can blow away at pleasure."

And such indeed is the expedient which these bold and rash men are now resorting to in this election. The whig party of the State met and instructed their men. They said to them, "Go in our name and bring back to us a good whig candidate fully and expressly committed to the faithful execution of the fugitive slave bill. Bring Millard Fillmore." Well, they went. Did they bring Millard Fillmore? No. Did they bring any body publicly committed to the fugitive slave law? No. Did they bring them a whig candidate at all? No. What, then, had they done? They had thrown down their instructions. They had required no public committal that nine hundred millions of property should be protected. They had gone over and joined their worst and bitterest enemies—enemies to us—enemies to our property. Enemies who hold that we are so vile, degraded and dishonest, that they will not admit us to any social or moral equality whatever. In short, they had formed an alliance with the sixty-six abolitionists, who spit upon their platform of principles. And now they had come home and were traversing the State from one end to the other, to cut off the head of any true whig who should dare refuse to form the same coalition in the election which they did in the nomination. He had come here to-day to ask the whigs one great question: "Can they co-operate with their sixty-six men who constituted the majority of Gen. Scott's friends?"

What did southern whigs want? they wanted the fugitive slave bill maintained, they wanted a President who, if it should be repealed by a majority of Congress, thereby overruling the Constitution, would veto it. They wanted one, who would throw all his influence in favor of stopping all agitation on this distracting question. They wanted one who would maintain and uphold the Constitution and thereby preserve our glorious Union. The sixty-six wanted one of opposite character—one that would recognize some higher law than the Constitution, and would rather see the Union rent in twain, than surrender one jot or tittle of their wild and furious fanaticism. The whigs of Tennessee, those who had not been seduced by visions of power and office, differed from this majority (sixty-six) of Gen. Scott's friends, as widely as the poles. How then was it possible that they could coalesce with them in this election as their three delegates had done in the nomination. He knew well how this argument was met. No whig orator had ever denied that the majority of Scott's friends were abolitionists—rank, furious abolitionists. They did not deny it, but sought to evade the crushing power of facts by saying that freesoilers aided in the nomination of Gen. Pierce. That he was brought forward under the auspices of the Van Burens and the Butlers of New York. He asked them how often had they read and heard that? Yet he, then and in their presence, would tell them it was false—every word of it false. He knew that the friends of the Van Burens (for they were not there themselves) in the Baltimore Convention, on every ballot voted for Wm. L. Marcy. They never voted for any body else. For a long time they voted alone. They were all in the New York delegation. Virginia brought in Franklin Pierce. True, those few friends of the Van Burens voted *finally* for Gen. P., to make his nomination as nearly unanimous as possible. But to say that they manœuvred for his nomination, and that he was brought up under their auspices, was a gross libel upon the real facts as they transpired in the convention. Some barn-burners, by which he meant Van Buren men, did sit in our convention, but they came there bringing the highest proof of their repentance and reformation. What was that proof? Their voting for Marcy, one of the strongest friends of the

fugitive slave law in the United States—voted for him, after he had written and published that he would veto any bill passed by Congress to repeal or impair its efficacy. Mark the difference. Write it on the wall—proclaim it on the house-tops—let all men read, and hear, and know the difference between their convention and our convention. Abolitionists were received in their convention, spitting on their principles and trampling their platform under their feet. The freesoilers in our convention, or rather those who had been such, came as repentant sinners—voting for our platform—voting for Marcy, who had just declared he would veto any bill repealing or affecting the fugitive slave law. What more could we ask? What more could they have done?

Gov. Brown said he had now finished this parallel between the two conventions. He returned to the great question:—Would the whigs of Tennessee, having failed to get Mr. Webster or Mr. Fillmore—the only whig candidates before the convention—now consent to take Gen. Scott as their candidate by adoption? Will they take him by adoption? \* \* \* \*

Gov. Brown, in continuation of this argument at a subsequent day in the canvass, in Dresden, maintained that the whig party, as such, was under no obligation thus to take him. You ought not, said he, because he did not come *fairly* by the nomination. The Archer letter contained a promise to come out in favor of the fugitive slave law, which was never redeemed; he did not do so in his letter of acceptance; he does not, in any of his many speeches which he is now making in his western tour. He seems to be entirely content with the nomination without looking to that promise at all. He has doubtless read, and is acting upon, the story of the sailor, who when compelled to leave his vessel and swim for safety to the shore, in his extremity began to pray to the Virgin. Among other things, he promised that if she would only save him this time, he would burn, in honor of her, a wax candle as big as his body. His comrade, who was swimming lustily by his side, remarked, “Thou fool! where can you ever get a candle as big as your body?” “Never mind,” said he, “let me once get on shore, and the Virgin may whistle for her candle.”

Yes, sirs, Gen. Scott got the nomination, and the whig party

may whistle for the candle. He got it by the double-dealing of a portion of the convention who were specially instructed by their constituents to vote for another. They gave only a *nominal* obedience, whilst they were really, from first to last, in favor of Gen. Scott. He got it by the sacrifice of the great doctrine of instruction, without which, Gov. Brown contended, this government was no better than any other government. He got it by refusing to come out publicly on the fugitive slave bill and the compromise generally, although an hundred whigs, J. C. Jones among the number, earnestly entreated him to do so. The presence of Gov. Seward, and Gen. Scott's silence, is ominous of the vast influence which is hereafter to be exercised over him. A senator in Congress and one hundred other whigs may go to him and appeal to him to give his views, and Mr. Seward has only to go along with them and say, with a significant nod, "Yes, sir, come out," to seal his lips against every declaration of his principles. Gen. Scott knew well that the hundred whigs expected him to come out *for* the fugitive slave bill, whilst Gov. Seward required him to come out *against* it. In the face of this fact, stated by Gov. Jones, my competitor, Judge Brown, on yesterday declared, that so far from having any influence over him, Gen. Scott would hang the abolitionists as high as Haman. Ha! are you sure of that? I think, said he, the danger is, the hanging will be the other way. I think the abolitionists have rather gotten the rope around the Judge's neck, and will be more apt to hang him and Gen. Scott and all of us together. Now you, said Gov. B., go a great deal farther than the whig elector for this end of the State; as far as *he* goes is, that when some one told Gen. Scott that it had been said, that if he was elected Seward would have too much influence over him, he replied, "Damn Seward." Now even this last story, I fear, is too much like that of the man who said he had been up towards Windsor Castle where the king was residing. "Ah!" said his friend, "what have you been up there for?" "Why, to see the king." "Did you see him?" "Yes, I did." "Did you speak to him?" "Yes, I cursed him black and blue!" "What! did he hear you curse him?" "O, no, he was about a half a mile off!" So I think it will be whenever Gen. Scott shall curse Wm. H. Seward. So here you have

it: Judge Brown tells you Scott will hang them, and General Haskell tells you he will at least damn them. Can he offer to hang those sixty-six friends of his who stuck to him through thick and thin, and who spit upon and spurned the whig platform? How can he have the heart to damn even Fred Douglass, the free negro, who from first to last (or his representative) stuck to him closer than a brother! The whole story reflects no credit either on the piety or gratitude of your candidate.

Sirs, it was this very silence, and Gov. Seward's power by his mere presence and look, to insure it, that furnished a powerful motive to the abolitionists to select him as their candidate; besides, he had spoken out in their favor on many occasions; he had spoken out when he declared, with John Q. Adams, that those petitions ought to be received, and referred, and reported on in Congress, like all other petitions; he had spoken out in his Atkinson letter when he said, "I am persuaded that it is a high moral obligation of masters and slaveholding States to employ all means not incompatible with the safety of both colors, to meliorate slavery even to extermination." What a word for abolitionists! Gen. Scott labelled it on his person, and every fanatic of the north had only to look at him and spell ex-ter-mi-na-tion. So much as to what attracted the abolitionists to Gen. Scott; now what was it that attracted him *to them*? I answer, the Presidency. He had looked around him to count his chances; he saw the whigs of the south had selected Mr. Fillmore; the whigs of the north had selected Mr. Webster, and the abolitionists alone were without a candidate; he wanted their votes, and they wanted his name and fame to drag them into respectability, and to give them the advantage of a more favorable position for future agitation and mischief.

Sirs, I do not pretend to say that Gen Scott is really an abolitionist, nor to intimate that hundreds and thousands who support him are such; but his alliance with them, and his consent to head and lead them on, is not the less dangerous to the south nor discreditable to him. I say this to repel the charge of Judge Brown that the democratic party is disposed to slander and traduce Gen. Scott. I repel it, and defy him to the proof. He says that when he had fought all the battles of Mexico and subdued that nation, that he was arrested, his

sword taken from him, and he was brought home in chains. Sirs, where did he learn all this? In what book? In what record? No, sir, he is behind the times. Gen. Scott was never arrested—never unsworded. He arrested others—unsworded them—and did every thing in his power to disgrace them in the face of the enemy; but he was never arrested, and was never put on trial for anything. He was recalled from Mexico, but he was recalled at his own request. Hear what the Secretary of War, Mr. Marcy, tells him and you on this subject: "As early as June you begged to be recalled; you allege that this application was rebukingly declined. This is not saying the exact thing. The reply to your request was, that it would be decided with exclusive reference to the public good. When that shall render it proper, in his opinion, to withdraw you from the present command, his determination to do so will be made known to you. Judging from the state of things at the head-quarters of the army in January, he (the President) concluded that he ought no longer to require of you reluctant service as Commanding General."

There, said Gov. Brown, is the whole foundation for all Judge Brown's complaints of slander and persecution. He begged himself to be recalled; he was recalled; and now we hear that he was arrested, unsworded, brought home a prisoner in disgrace! On the score of slanders against our respective candidates, I am ready to compare notes at any moment. Who is fabricating them every day against Gen. Pierce? A committee at Washington made up of the worst enemies the south ever had. From this great laboratory of falsehood and lies, they are sent forth north or south as they may best affect the public mind. Falsehood, perjury and forgery are doing hourly their infamous work. The charge of cowardice before the enemy and in the social circle had its brief career, no doubt misleading thousands, but now, when the refutation and recantation can hardly be expected to overtake the original slander, they are freely withdrawn. But, sir, detraction is so common that I will not dwell upon it. My time is nearly out, and I wish to make an appeal to my whig brethren in relation to the coming election. I do not ask them to vote for Gen. Pierce, although it would not break one single tie that holds you to the

whig party. Gen Scott is not your candidate; he was not nominated by you: nay, he beat you down and prevented you from having one. Still I fear that you will hardly adopt the nomination of Gen. Pierce. You ought to do it under the circumstances of the case, but still, I will not insist upon that. I only ask that you will stand off and let us fight this abolition battle alone. We will fight it successfully—we will save your property as well as our own. I pray you not to throw your weight and power against us. We cannot conquer you and the abolitionists both. You ought not to expect us to do it, and if you thought the danger as great as we do, you certainly would not require it. That we do not over-estimate the danger look to the opinions and actions of your own party. Gentry and Williams are as wise and careful of your rights as Gov. Jones and W. T. Haskell—Epriam H. Foster and Francis B. Fogg, have as much sagacity to see danger as any other men whatsoever in your party. So have Dr. Shelby, Dr. McNairy, Mr. Whiteside and others that might be named. If these wise men of your own household were here to-day addressing you as I am doing, they would make the same appeal which I now do. They would say, we are whigs, the oldest in the State, but this election does not turn upon whiggery and democracy. It turns upon your right of property in slaves, under the Constitution; nine hundred millions in amount; it turns upon the preservation of that property, and the future peace and repose of fifteen States of the Union, and we cannot, and will not support Gen. Scott. When whig questions shall again arise, we shall be whigs again, but now we go for the preservation of the Union and of our rights under the Constitution.

## S P E E C H

*On the Progress of the United States and on the Slavery Question.  
Delivered at Odd Fellows' Hall, (Nashville, Tenn.,) for the  
benefit of the Orphan Asylum, by Ex-Gov. A. V. Brown,  
in 1850.*

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It is now just three quarters of a century since the United States proclaimed her determination to take her place amongst the independent nations of the earth. It was a high and bold resolve, so full of peril that it drew tears from the interpid patriots who signed the ever memorable declaration. It startled the mother country and astonished the other nations of the old world. It was a contest of youth against matured and hardened manhood; of a weak and scattered people against the most formidable and powerful nation on the globe. Without money, without an army, with scarcely a single ship of war on the ocean, without even entire unanimity of sentiment amongst her own people, she fearlessly engaged in the struggle, resolved to be free, or to perish in the attempt.

A cause so just and an example so heroic, could not fail soon to attract the favor and sympathy of mankind. France, partly from hereditary hatred to England, but mainly from the germinating seeds of her own subsequent revolution, tendered to the young Republic her auspicious and powerful assistance. For seven years she maintained the long and dubious contest. History has faithfully recorded the consummate skill of her

generals, the heroic valor of her soldiery, and the patriotic sacrifices of her gallant people.

At last, crowned with success, with her liberties firmly established and their acknowledgment extorted from her oppressor, she stood forth the wonder of the age, the admiration of the world !

But whatever of skill or of valor she had exhibited in the war, was far outshone by the wisdom she displayed in the form of government which she subsequently devised and adopted. She summoned her wise men throughout all her borders to come up to the great work of devising a system which should be worthy of the mighty struggle through which she had passed, and of the gallant people who had nobly sustained it. They came. Washington came; Benjamin Franklin came; old Roger Sherman came; James Madison came; Rutledge and the Pinckneys came; and many others whose names and fame have long been identified with her highest glory and renown. When the great work of forming her Constitution was completed, it was transmitted to Congress by George Washington, who had presided over its formation, accompanied by a letter, which, like his farewell address, ought to be forever preserved, and as often referred to for lessons of wisdom and patriotic devotion to the Constitution and the Union. I will not withhold on the present occasion the following impressive extract : "In all our deliberations we kept steadily in our view that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in convention to be less rigid on points of inferior magnitude than might have been otherwise expected; and thus the Constitution which we now present is the result of a spirit of amity, and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable. \* \* \* That it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish."

This noble monument of human wisdom was subsequently adopted by the States. It became our Constitution, our Union,

our system of federal government. They are not separate and distinct things. They are one, indivisible and identical. Whoever has read the one has read the other. Whoever obeys one, obeys the other. Whoever dissolves the one, dissolves the other. As the old articles of confederation formed and were the Union, so the new Constitution became and is a more perfect Union. Under it, our country has thus far run a career of prosperity unparalleled in the history of nations. Triumphant in two wars since its adoption, especially brilliant and invincible in the last one, she has placed her military renown above all cavil and beyond the reach of all competition. In peace, in all the arts and sciences, which bless and adorn such a condition, she has been no less an object of admiration and praise. From three millions, her population has grown up to more than twenty millions. From thirteen original States we have become a confederacy of thirty republics, and can scarcely announce the number until another and another are added to the glittering and gorgeous galaxy. They come from every part of this wide spread continent; from the lakes of the north; from the shores of the Gulf or the distant regions of California, glittering with her gold and sparkling with her diamonds. Her wide spread commerce is seen floating on every sea, penetrating every climate and country, and protected by a navy which has carried her name and her fame to every part of the habitable globe. Success in agricultural pursuits has crowned with plenty the labors of her own people, and carried abundance and joy to the famishing population of the old world. In her internal improvements; her canals; her railroads; her telegraphic lines; the removal of obstructions from her majestic rivers, she has exhibited the elements of a great and prosperous people. But above all, she has become "the desire of all nations," in the freedom of her institutions, the justice and equality of her laws, and the wisdom and impartiality with which they are administered. In fine, her past history and progress is a bright and almost magic picture on which the civilized nations are now gazing with intense admiration and delight. Most willingly would I hold that picture up to your gaze; to your admiration; to your own patriotic pride and just exultation; but a sterner and far less agreeable duty lies before me.

In the midst of this unparalleled progress, when we are but midway between the morning and high noon of our prosperity, the gloomy shadows of sectional discontent come stealing over and around us, deepening and darkening as they come. A dread eclipse seems to be approaching. Amid the gathering gloom, the cry is heard, that the Constitution, the Union, our confederate system is in danger. From the east and the west, from the north and the south, the messages of State Governors, the resolutions of State legislatures and the solemn deliberations of large popular assemblies, confirm the astounding and almost incredible annunciation. Panic stricken and amazed, we turn with patriotic instinct to the centre of our political system ; to the city which bears the name of the illustrious father of his country ; we turn to it for light, and peace, and safety. But no light is to be seen gleaming from her council chambers. They have all been put out. For weeks and months, no speaker ; no clerks ; no sergeant-at-arms ; no chaplain ; no organization for the public good, but perpetual readiness for agitation and mischief. Nearly all, but not all of those great and good men who used to be there from the north to perfect, adorn and perpetuate our system of government, have retired from the theatre of action or have been superseded by men whose sole delight seems to be, day after day, and night after night, amid the fire and smoke and suffocation of a wild fanaticism, to deal blow after blow upon the Constitution, until the Union shall crumble to ruins around them. Let us now pause and look at the proposed invasions of that heretofore consecrated instrument.

The first one is, that the clause allowing the representation of three-fifths of the slaves, shall be expunged, obliterated from the Constitution. It is a clause which had long been debated in the convention. At that period slavery existed in several of the northern as well as the southern States. But in the spirit of amity and of mutual forbearance and concession, the difficulty was compromised ; and Massachusetts and Virginia, Connecticut and Georgia walked harmoniously into the Union, co-equals in every respect, having compromised this and all other points of difference, as the basis and principle of representation. Cannot Massachusetts now consent to do

what Massachusetts was content to do then? Is the Connecticut of to-day unwilling to stand to the compact ratified by the Connecticut of 1787? If not, on whose head shall fall the blame of destroying that compact? The south cannot afford voluntarily to submit to a great change like this. She is already in a vast and increasing minority; her contemplated exclusion from the territories of the United States would soon reduce her so low in the scale of insignificance as to sink her on every invasion of her rights, far below the protection of even a Presidential veto. When that shall have been done, who can doubt that the feeble barriers, which are now admitted to forbid interference with slavery in the States, will all be broken down and the dark spirit of murder and insurrection stalk mad, riotous and bloody through the land. To ask her voluntarily to make this change is but an invitation to suicide; to force it upon her by numerical power is to break and dissolve the Constitution; to break and dissolve the Union; to break and dissolve the federal government; no matter which of these forms of expression may be adopted. In such an act the south would stand *passive*, and faithful to the original compact; the north would be *active* and destructive of it. It may be said that the Constitution expressly provides for its own amendment, and therefore no alteration can be destructive of it. But let it be remembered that it was to be amended as it was formed, in the spirit of amity and mutual concession; not of hostile and degrading aggression. To amend by *improving* not by *destroying* those guarantees of life and property, without which we know it never would have been adopted.

Look next to the abolition of slavery in the District of Columbia, in the forts, arsenals, navy-yards, and other public establishments of the United States. What adequate inducement can the north have to raise all this clamor for years, about a little district, ten miles square, (now much less,) and a few inconsiderable spots and places thinly scattered over the land, scarcely larger than a mustard seed when compared to the vast body of the slave-holding region? Would a microscopic concession like this appease a conscience, wounded and lacerated by the sin of slavery? If abolished in these, it would be but the removal of one grain of sand from the beach—

the withdrawal of but one drop from the vast ocean of alleged national guilt. But small as it might seem to be, the south cannot safely submit to abolition even here. How could Maryland, how could Virginia submit to it? When the District of Columbia should have become a city of refuge for the slaves of the surrounding country, what earthly power could prevent the chivalrous sons of Virginia and Maryland from asserting their rights and reclaiming their property? Members of Congress, who now shudder with horror at reading in some metropolitan newspaper, the advertisement of some negro slave for sale, might then be doomed to witness many a scene of strife, and to behold many a wounded captive borne off in chains, who, without his officious legislation, would have remained contented at home, eating the same kind of food, reposing through the same hours of the night, and working side by side with the master through the day, in the same fields, where both had been reared, in kind and sometimes affectionate regard for each other.

Look next to another of these aggressions on the rights of the south, which proposes under the pretext of regulating commerce among the States, that no slave, for no purpose, and under no circumstances whatever, shall be carried by his lawful owner, from one slave-holding State to another. That where slavery now is, there it shall forever remain, until by its own increase, it shall outnumber the opposite race, and thus by the united combination of causes—the fears of the master, the diminution in value, and the exhausted condition of the soil, the final purposes of fanaticism, whatever they may be, shall be accomplished. For this extraordinary proposition no apology can be offered; for it is established by universal observation, that if you give to slavery but scope and compass, if you permit it to be dilated over ample space, it loses much of that oppression which even a morbid humanity could deplore. In many regions of the south, I hesitate not to declare that in point of care and anxiety—in point of abundance of food and raiment—of healthful but humble habitation, the slave is but little distinguished from the master.

Before we further pursue this enumeration of our wrongs, permit me to say, that I do not include the whole north as en-

gaged in this crusade against us. Whilst we fear that we can exempt no large classes and no large portions of any party, I freely admit many individual exceptions that challenge our highest admiration and gratitude—men who stand forth among the brightest ornaments of our age and country.

The last in the series of aggressions to which I shall call your attention, is that one commonly called the Wilmot proviso, by which Congress is called upon to prohibit every slave-holder from removing with his slaves to the territory lately acquired from Mexico—a territory as large as the old thirteen States originally composing the Union—a territory won by the common valor, and paid for out of the common treasury of the nation. Simply to state the proposition is to show its enormity. Even the brigand will make honorable divisions of the spoils among all who went willingly and bore themselves valiantly in the expedition of rapine and plunder. Will proud and independent States do less with their compeers in an expedition of honor, and duty, and patriotism? If disposed to taunt, I might demand to know if the north, a large portion of it at least, did go willingly? Whether she did not denounce the expedition as wicked and unjust, and the acquisition barren and worthless? How then is it that she shall demand the lion's share of it to herself? Even after it had been acquired, many there were ready to abandon it and surrender it back to what they were pleased to term a weak and helpless and innocent people—more willing then to give all to Mexico, than they now are one-half of it to their own countrymen. And what has the south ever done to merit such exclusion from the common soil, the common property of the nation? Trace her history—in peace and in war—on every battle-field, and in every council-chamber, she has been true and faithful to all her engagements to the north. Observe her more especially in the contest, by which that very territory was acquired from which she is now to be excluded. Both of your great commanders were from the south. Many subordinate generals, their "kindred thunderbolts in war," were also from the south. An equal number—nay, a majority of your invincible soldiery were from the south. Why should they be permitted to gather laurels from Palo Alto to Buena Vista—from Vera Cruz to the

Mexican capital, and then, when every province had been subdued, and your flag was proudly waving over the halls of the Montezmas, why should they be required to bow their heads, and meekly to retire—excluded—driven out from the country moistened with their blood, and immortalized by their valor. Could the north point me to “the book and page”—to the very clause of the Constitution which would expressly warrant an exclusion so unequal, and so unjust, I would not yet believe that a land that bears upon her bosom the proud and lofty monument of Bunker Hill, would ever perpetrate so foul—a incomprehensibly monstrous deed. But that book—that page—that clause can never be shown. It is vain to point us to that provision of the Constitution which declares that, “Congress shall have power to dispose of, and make rules and regulations respecting the territory or other property belonging to the United States.” Territory means the land—the soil—which *belonged* to her. The *property* which she might have *need to dispose of*. To *dispose of*—to sell her territory or public lands, rules and regulations might and would become necessary: they must be surveyed. The size and form of her surveys, the price which should be demanded for them, the location of the offices where the same shall be *disposed of*, were all among the “rules and regulations” contemplated by this section. It did not speak of political associations or governments under that term. The exclusion of every such conclusion is to be found in the after declaration “that nothing in this Constitution shall be so construed as to prejudice any *claims* of the United States, or any particular State.” Under this clause, however, the United States may *entirely* prevent the formation of political associations or governments upon her territory or public lands. She may exclude the settlement of them altogether. She may choose to reserve them for after times or to hold them as uninhabited barriers between herself and some co-terminous nation. If such should not be her policy she may permit and invite their settlement with a view to political organization. But because that territory is hers, she may prescribe the description of persons, whether unnaturalized foreigners or the citizens of the United States, who may inhabit it. She may discriminate against the former on the

great principles of self-defence against the formation of an organized government of foreign subjects on her own soil, within her own boundaries, hostile in sentiment, and dangerous to her republican form of government. Against and amongst her own people, she can make no such discrimination, because neither founded on necessity, consistent with the community of property, nor warranted by that perfect equality of rights secured to the people of the States by the Constitution. For the same reason, (the right of property) she may designate the boundaries within which such political associations may be formed. The land, the soil, the territory is her own, and she may therefore well determine such a question according to her own will and pleasure. All other questions preliminary to political organization and to subsequent application for admission into the Union, acted on by Congress, must be the result of strict necessity or of acquiescence on part of the people for mutual accommodation and convenience; all these questions relate chiefly to *mere modes* of action and sink into comparative insignificance in this discussion. But the great principle of self government inherent in every people, and the guarded and limited powers granted to the general government, would clearly indicate to my mind, that whatever Congress has done or may hereafter do in reference to introducing measures preliminary to the organization of territorial governments, she ought never to enter upon direct and immediate legislation for them. But my purpose is not here to discuss the Constitutional questions involved in the present contest between the north and the south. This is neither the time nor the occasion. I therefore pass to another, and would solemnly and earnestly enquire what the north can expect to gain by all these high and imperious demands! Does she expect thereby to wipe out the stain of what she is pleased to call the *national sin of slavery*? Why slavery has no nationality! It is purely a local and sectional institution. Whatever of sin may be ascribed to it can never attach in any degree to the north, until we obliterate the States and become one vast consolidated government. If it be replied that whilst this is true as to slavery in the States, yet the territory of the United States is national and the introduction of slavery there would be a

national transgression—well, we have agreed to set bounds to this *imputed sin*, by the compromise of the Constitution, by the Missouri compromise, by the Texas compromise. And even under these we ask the north to give no affirmative sanction to the sin or other evils of slavery. All we require of her is to take no action on the subject. Will not this do them? It did the venerable men of the north sixty years ago. It satisfied them thirty years ago when Missouri came into the Union. Why not now? Let them remember too, that whether they admit slavery upon one foot of our territory or not, cannot affect the question of its sinfulness in the slightest degree. Admit slavery to-morrow into every territory north and south of thirty-six degrees and thirty minutes, and you add not a single one to the number. Exclude them, and you make their number not a single one the less. The aggregate amount of sin and of suffering, as you regard it, will therefore remain the same whether you fail or succeed in this notable scheme of conscientious purgation.

Let me further enquire of the north, when she has succeeded in all her proposed measures, what she expects to accomplish for the relief of “the poor enslaved and down-trodden sons of Africa?” You would shake a continent from the centre to its circumference for their relief. You would deal blow after blow on the Constitution, until you would make the Union reel and stagger like a falling and dying man, to lighten their yoke and loosen their chains; and what, I demand to know, is likely to be your successs? Deluded by your perpetual agitations, they become gloomy and discontented with their lot. Suspicion watches every look and refers every action to some settled purpose of intended insurrection. If outbreaks ensue, destitute of arms, and ignorant of their use if they had any, with no concert of action, and no leader to conduct them, they would soon be dispersed, or shot down in the fields and the highways like so many wild beasts of the forest. Thus they would perish; by famine, by the sword, by the halter; and dying, would heap curses on those who had disturbed them in their former contentment and repose. But let us suppose that their efforts should be crowned with success so far as to secure their escape from their further bondage. Where shall

they go ? who will receive them ? Will the north ? Never ! Notified of their approach, the north would meet them on the border, drive them back, or strew the earth with their dead bodies. Would the north ever consent to pay for them and thus secure their final and certain emancipation ? Never ! Would she consent to pay even the expenses of their transportation to the shores of their native country ? Never ! Would she even allot to them a home and a resting place on the banks of the distant Oregon or the plains of the Sacramento ? No never—especially now, when gold is washed in every river and sparkles on the summit of every mountain. I again ask, what is to become of them ? Excited to rebellion but too weak to conquer ; encouraged to fly and yet find no people, no country willing to receive them ! Would to God that I could send my voice to-night into every town and village and farm house of the north. I would say, let this people alone. They are now comparatively contented and happy. They are well clothed, well housed, and well fed. In sickness, the best physicians are called to their bed sides and in health they are not compelled to work as hard as the day-laborers of your own region. You cannot, you do not know how to better their condition. Let them alone, until God in His mercy to the master as well as the slave shall point out the way of their deliverance.

If then even the slave is to become loser by your injudicious if not officious benevolence, look a little further and see if you may not become a loser yourselves by it. Look to the following estimates of your annual profits growing out of your connection with the south ; estimates founded on the most reliable data :\*

Freights of Northern shipping on Southern produce, - - -	\$40,186,000
Profits derived on imports at the North on Southern account, -	9,000,000
Profits of exchange operations, - - - - -	1,000,000
Profits of Northern manufactures sold at the South, - - -	22,250,000
Profits of western produce descending the Mississippi, - - -	10,000,000
Profits of Northern capital employed at the South, - - -	6,000,000
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	\$88,436,000

\*See the January Number of The Democratic Review for 1850.

Eighty-eight millions of profits annually poured into the lap of the north by its connection with the south! How much of these may you not lose, nay, must you not lose by dissolving your connection with us. With the annexation of Texas, the last acre of the cotton growing region passed beneath the wing of the Eagle, and changed for all time to come the destinies of the southern States.

England, France, and the northern States, have all become competitors and rivals for her great staple, which in the language of an able and eloquent writer in one of our periodicals has been spun into a web that binds the commercial world to southern interests. The cotton growing experiments in India have failed, the blundering emancipation policy of England in her West Indies has failed, and the southern States are now sole possessors of a staple on which half the manufacturing and commercial interests of the world depend.

But whilst the south is conscious of the vantage ground which she occupies, she is neither insensible nor indifferent to the great interests of the north. She turns not a spindle, she weaves not a woof, she sails not a ship in which the south does not feel that she has a just degree of national pride and exultation. Her navigation and manufacturing interest can never become antagonistic to the south. Antagonism must come from England; the north already manufactures more than half a million of our cotton bales; England the greater portion of the balance. Her proximity to the place of production; the abundance and cheapness of her provisions, and above all her fraternal and national connection with the south, will enable her to achieve successive victories over her transatlantic rival, at which none will more heartily rejoice than her southern brethren.

But that connection must be fraternal. What is the Union worth, when the spirit of amity and concord has departed from it? This agitation of the slavery question is so unfraternal that the south has never seen the day when she would not rather have had a foreign enemy thundering on her border, than to have this slavery question under annual discussion in Congress. To the north it brought no danger; your families were safely housed and slumbering in peace and security, far

away from the storm that was howling in the distance. Not so the south. For the last few years not a fire-bell has been rung at midnight in our cities, which did not strike a pang to the heart and make the mother clasp the sleeping infant closer to her bosom.

I have yet another question to submit to the north on this great subject, the counterpart of the question of loss which we have just been considering. What do you expect to gain for yourselves by pressing these measures upon the south? Not political power and ascendancy. You have acquired these already. That was the high stake, for which some of your ambitious statesmen have been playing for nearly half a century. I do not say they have had no southern competitors. But the game has been played out and the south has lost it. The government is yours; all its vast patronage is yours; the President and all the high offices of State belong to you, whenever you choose to have them. The south knows that the sceptre has departed from her; nay, that she handed it over to you herself, when Virginia ceded to you with a noble and patriotic generosity her northwestern possessions. Without Ohio, Indiana, Illinois, and I believe a portion of Michigan, where would be now, and for all time to come, the preponderance of political power? The sun in one entire revolution around this earth, no where shines on a finer region than was freely surrendered to you by "the mother of Presidents and of States." It was the gift of the south to the north. The magnificence of that gift, if it shall generate no arrogance in the possessor, can never bring regret to the generous bosom of the munificent donor. If ambition and power and patronage be no longer the objects of your pursuit, what can you expect to gain by further agitations? Nothing. I repeat nothing but alienated affections; a violated Constitution; a broken, shattered Union, and with these the taunts and jeers of exulting monarchy, and the indignant frowns of the friends of liberty all over the world. Dream not that the odium of dissolving this glorious Union, still stretching like the rainbow of hope and of promise over the continent, shall ever be cast on the States of the south. That shall be your work, not theirs. The dissolution of the Union is nothing but the destruction of the Constiti-

tution. The destruction of the Constitution is completed, when your measures of aggression are accomplished. The south loves the Union. She will cling to it to the last, and when one violation of the Constitution after another shall have destroyed it, she may well exclaim, "It was not I that did it." When the great crisis shall come and crash after crash shall announce the downfall of the republic, the world will be at no loss to know what barbarian hand struck the fatal blow. Calm, erect, but sorrowful, the south will be seen standing amid the ruins, holding to her bosom the farewell address of the sainted Washington, and appealing to Heaven to attest her fidelity to its sacred injunctions.

In this dark hour of peril and danger, what does it become the duty of the south to do for the preservation of her rights? If the humblest of her sons were permitted to advise, he would say to her, prepare, by all the means that wisdom can devise and patriotism approve, prepare for the coming tempest. Its low mutterings are no longer to be heard in the distance. It is already upon you and its thunders are bursting peal after peal over your head. Every gale that sweeps to you from the capital, bears upon its wings the news of renewed agitation and increasing excitement. You cannot tell on what day nor in what hour that glorious flag which waves over the deliberations of Congress, the proud emblem of our Union and our power, may be stricken down, in token that fanaticism and ambition have accomplished their work, and that the days of the republic have been numbered. What then! what then? Go ask the sainted spirit of Washington; go ask the genius of Liberty as she stretches her wings to take her everlasting flight from our country. Not yet, not yet—stay! stay! all is not lost. See! our noble flag again re-appears! Some bold and patriotic hand has lifted up and restored it, and the light of hope is once more beaming from the dome of our capitol.

Let us never despair of the republic. God never conducted our fathers through so many trials and dangers; he never inspired them to build up so great and so excellent a system of government, to permit their degenerate sons so soon to destroy it. The north will yet recede; a voice which she has long known and so often followed, has already proclaimed that she

can and ought to recede. When she shall further hear, as hear she must, that the south can never submit; that come what may, she never can and never will submit, that her peace, her safety, her honor, her very existence, all forbid it: when the north shall moreover remember that all the evils of which she complains were inherited by us from her and from our British ancestors, without our consent and against our earnest entreaties, she must pause, she must recede. Let us cherish this hope of returning magnanimity and justice. We have seen the noble vessel of state outride many a storm. Despair can only increase her danger in the present one. Let us hope and cheer her to the last.

“Thou too, sail on, O ship of State  
Sail on, O Union strong and great !  
Humanity with all its fears,  
With all the hopes of future years,  
Is hanging breathless on thy fate !  
We know what master laid thy keel,  
What workman wrought thy ribs of steel,  
Who made each mast and sail and rope,  
What anvils rang, what hammers beat,  
In what a forge and what a heat  
Were shaped the anchors of thy hope.”

## S P E E C H

*Of Ex-Gov. Aaron V. Brown, in the Second Session of the Southern Convention, on the Resolution Reported Saturday, November 15th, 1850.*

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MR. PRESIDENT:—Since our adjournment in June last, Congress has acted on all the great and exciting subjects which had called this convention together. Our business now is, to examine how far that action has been or ought to be satisfactory to the south. I have examined the bills, with the strongest predisposition to be pleased and satisfied with them. I am proud of my country—proud of her institutions—proud of her brilliant and triumphant career. I am, therefore, painfully anxious that nothing should occur to retard her progress or to obscure her bright and glorious future. But, sir, I have tried in vain to be convinced that the south has received any thing like justice at the hands of the north. In every effort my mind stands baffled and rebuked in the vain attempt.

I begin, sir, with the admission of California. I waive all irregularity in her application—all imputed Executive dictation—all doubts about the citizenship of those who participated in the formation of her constitution. Still I am compelled to demand, why was she permitted to come in with all this boundless extent of country? It was not *necessary* to her people; on the contrary, we know that it was highly *inconvenient* to them. Why, then, was it done? That man must be

blind who does not see, and know, and feel that it was done for the sole purpose of excluding the south forever from the shores of the Pacific. The north had said that she should be excluded. The Wilmot proviso was the infamous instrument selected for the purpose. The people of California, forgetting for the moment how much they stood indebted to southern valor and southern counsels for their very existence, let themselves to the inglorious deed. Congress, by rejecting every proposition to curtail her enormous boundary, ratified and confirmed it ; and thus the great work of our exclusion was accomplished. Remember, sir, I am not complaining that California was admitted as a State : nor am I objecting to any size and boundary which the wants and necessities of her people might demand. My precise objection is, that she was let in with an extent of boundary which she did not need and which she did not expect or desire to retain, and which, in reality, she is only holding over against the south, for the future benefit of the freesoil States of the north. Congress ought to have said, "Take of the common territory what you need—take largely and freely ; but you shall not take all." Now, sir, if Congress refused to say this, with the view of depriving the south of her fair and just proportion of this common fund, the device, though ingenious, was nevertheless a flagrant violation of the Constitution.

So much as to the admission of California into the Union. What of Utah and New Mexico, embracing all the balance of the territory ? They have been organized into territorial governments, but with no clause repealing any laws or ordinances of Mexico abolishing slavery which may be in force in them. For the want of such a clause, I maintain that they are as effectually lost to the south as if they had been sunken by an earthquake. If those laws and ordinances are in force, then, of course, they are lost. But I maintain that if it be only doubtful whether they are in force or not, that very doubt is as fatal to the south as the Wilmot proviso. No southern man will dare to take his property there until that doubt is removed. Congress ought to have removed it. Her own discussions had started it, and the master minds of that body had fixed and confirmed it. If her object really was to open those

countries equally and fairly to all the citizens of all the States, she should have added the following section: "Be it enacted, that all laws and parts of laws passed by Mexico, which may be in force in said territories in relation to slavery, be, and the same are hereby repealed." Mr. President, this short but expressive sentence would have at once calmed the fears and discontents of the south. The clouds which lowered so darkly over her horizon would have been dispelled, and the rainbow of hope and confidence would have shone with renewed brightness and glory. But no: the amendment was offered and voted down, and the south doomed to submit—not to the Constitution, but to Mexican laws if they existed; or to stay away, from a well grounded apprehension that they might exist. Sir, that was the fatal vote that prostrated the south in those territories. She was the equal of the other States. She had as much right to enter there with her property as they had with theirs. But Congress leaves an old Mexican ordinance, or the well grounded fear of it, to do that which Mexican bayonets could never do: to drive every southern man away from the country.

And what are the explanations and apologies for this extraordinary vote when given by southern men? It is first alleged that these Mexican laws are not in fact in force, and then it is gravely insisted that you cannot repeal what is not in force!—that you cannot repeal a nonentity! In passing a new law, how often does the legislator find himself in doubt as to how many of the old laws may be in conflict with it? or, how often does he doubt of what the opinions of the judges might be on the subject? and how sure is he in either case, to give certainty and force to the new enactment, to declare "that all laws and parts of laws which *may* be inconsistent with it shall be repealed?" No man can give dignity or respectability to such a sophistry, and I dismiss it, in order to notice another. It is said that such a repeal of the Mexican laws would be equivalent to the establishment of slavery in those territories, which Congress cannot and ought not have done. What! to repeal "all laws and parts of laws" in relation to slavery equivalent to the establishment of it? Directly the reverse—it leaves the whole country, *rasa tabula*, a mere blank—with nothing for or against

slavery. What then? Why, it must remain forever unestablished, unless Congress shall interfere and establish it. This is forbidden by the great doctrine of non-intervention. What then? It must remain so unestablished until the territorial legislatures establish it. The universal opinion has been (at least until very lately,) that territorial legislatures had no such power. What, then, becomes of slavery in these territories, the common property of the States, during the interval of the repeal of the Mexican laws and the time when they form a State Constitution, preparatory to admission into the Union? During all this time the country is *a mere blank*, with nothing for or against its establishment. It is subject to the Constitution of the United States alone. If *that* will protect the southern man's property there, he is content. If it will not, he is content. He invokes no intervention of *Congress*, save to set aside the previous intervention of *Mexico*. When that is done he has an open field and a fair chance under the Constitution.

But, sir, another argument is made, that the doctrine of non-intervention forbade this repeal of the Mexican laws and ordinances. I pretend to understand something of this doctrine. I have borne its banner through three hard fought political wars. I have unfurled it in every valley and planted it on nearly every mountain top of Tennessee. What was that doctrine? Non-intervention by anybody and every body—between the people and their right to settle the question of slavery when forming their State Constitution. Non-intervention by Congress, non-intervention by Mexico, non-intervention by any body and every body—that was the Polk, the Cass, the democratic doctrine, if you please. What an absurdity! To hold on with a death-grasp to non-intervention by Congress, and at the same moment to advocate intervention by Mexico! Intervention by Mexico cleaves your rights to the earth, as certainly as intervention by Congress. Why all this clamor against the Wilmot proviso? Why this bold and daring declaration that you would resist *that* at all hazards and to the last extremity, if, after all, these old Mexican ordinances were to remain unrepealed, the only things which American valor could not subdue in Mexico!

Mr. Clay, Gen. Cass, Mr. Webster, and many others whose

names may well stand in proud association with theirs, long since told you that these ordinances were in force. If you did not mean to open that country to the south, by repealing them, why did you not surrender at once and say that the south never could and never ought to get any portion of it? Sir, I put the question to this convention, I put it to the good sense of mankind, whether great Constitutional rights ought ever to be sacrificed by holding to a *mere abridgement* of the doctrine of non-intervention, too narrow and contracted for their protection?

Mr. President: In the progress of this dispute about our territorial possessions, we have lost too much, by not better understanding this doctrine of non-intervention. At our last session we maintained this doctrine in its fullest, broadest sense. In ten resolutions we maintained it—maintained it as to the whole country. But, sir, after exhausting every argument and making every appeal to our northern brethren to allow us the full benefit of it, we turned to the contemplation of the painful fact, whose bitter realization we have since experienced—to the fact that there was little or no probability that our rights would be fully recognized. Under the full belief that they would not, we planted ourselves on the former compromises which had been made in critical periods of our history. Sir, we were unanimous in favor of the Missouri compromise line—not one discordant voice was heard through the spacious hall of our deliberations. If the Congress of the United States had responded favorably to that voice, all would now have been well with the Republic. California would have been in the Union, but with her southern boundary on thirty-six degrees, thirty minutes. She would then have been larger than Virginia, New York, or Pennsylvania. The remaining country would have been organized into territorial governments, without saying a word about slavery—neither admitting it nor rejecting it; but with a repealing clause of laws which might be in force there abolishing slavery. Thus the south and the north would have been thrown on an equal footing, leaving it to the Constitution—not to Congress—not to the laws of Mexico—to say whether slaves should be carried there or not. Ah, if this had been

done, what contentedness and peace would have then pervaded our once happy country ! Then, indeed, we could have rejoiced and started afresh in the career of national greatness and glory. But, sir, it was rejected, and the strange story is now told us, that it was anti-republican ! Anti-republican to abide by the Missouri compromise ! by the Oregon compromise ! by the Texas compromise ! Take back the incredible charge. The last message of James K. Polk to his countrymen, just before he went down to the tomb, implored them to settle this question on the principles of the Missouri compromise. Take back the charge that he was no republican. When Texas was admitted on the compromise line of thirty-six degrees thirty minutes, Andrew Jackson was still living, and his heart rejoiced to see the noble work accomplished. Take back the charge that Andrew Jackson was no republican. Take back the charge against the hundreds, and thousands, and tens of thousands, who voted for thirty-six thirty in voting for her admission into the Union. Take it back, or strafe your shout for Polk and Dallas, and tear down from your banner the lone star of Texas.

It is sometimes declared to be unconstitutional. It was not proposed as an ordinary act of Congress but as a *compromise* —a compromise of a disputed question of constitutional construction. Now, why cannot a disputed construction of the Constitution be compromised as well as any other ? Every other question, it seems, can be compromised. Even an omnibus-full of all sorts of compromises will do. Yet the Missouri compromise and the Texas compromise will not do at all. And why were they unconstitutional ? Because, it is said, they allowed of the intervention of Congress north of that line. No, that was not the compromise. The original demand of the north was, that Congress should intervene and exclude slavery from the whole country north and south of thirty-six degrees thirty minutes. Now, the *compromise* was, that Congress should *forbear* that intervention or exclusion of slavery, and leave a part of it for the south—that part was south of thirty-six degrees thirty minutes : that was the true nature of all these compromises ! Now, was it unconstitutional for us to *save a part* when we were otherwise to lose the whole

country? Well, now, after all, let us look to results. Congress rejected our Missouri compromise, and passed its own bills in lieu of it. Which was best for the south? Ours would have saved one-third or more—your bills have lost all—every square acre of it. What equivalent, let me now demand, has the south received under these bills for the loss and surrender of these vast possessions? For California, the key that commands all the amazing commerce of the Indies? The fugitive slave bill! For Utah and New Mexico? The fugitive slave bill! What for the loss of nearly two States proposed to be carved out of Texas? The fugitive slave bill! Truly this fugitive slave bill must be something new and miraculous. No. It is not new—for it is only the act of '93 a little amended and enlarged; and the act of '93 was nothing but a meagre compliance with an express provision of the Constitution. But, if not new, surely it must restore vast numbers of fugitive slaves to their masters, in compensation for the loss of so much land! Restoration! I believe it is rather the other way. Instead of coming home, I believe they are getting further off—scampering away in great droves to Canada! But to be serious, what a pass has the country come to, when one half of it has to bribe the other, simply to do its duty under the Constitution! The south to give up its half of the countries acquired from Mexico, in order to induce the north to surrender our fugitives from labor! What a commentary on the *fraternal*, Constitution-abiding spirit of the north! But, it seems that after giving up all our interest in the Mexican territories, even then, they are not willing to surrender our slaves. They seem determined to take our lands and keep our negroes too!

But, I admit these territories have not been lost by the instrumentality of the Wilmot proviso. That was one of her advanced or outer works which the north concluded to abandon, because the south, the whole south, had vowed they should be carried, at all hazards and to the last extremity. With an adroitness which has distinguished all her movements on these slavery questions, she retired from the Wilmot and entrenched herself behind the *Mexican* fortress; and the south either had not the courage to attack her there, or vainly imagined that she

had retreated from the field and given up the contest. No, sir, she has not retreated—there she stood undislodged, and there she yet stands, sole mistress of every province. California is hers—Utah is hers—New Mexico is hers—all the flocks and herds in their teeming valleys—the gold that glitters in their rivers—the diamonds that sparkle in their mountains—must now be hers, and the poor deluded and defrauded south has nothing left but the sad remembrance that this mighty domain was subdued by the valor of her gallant but now rejected people. Even the graves of those who died in the conflict are no longer ours—they have passed over into the possession of those who felt no sympathy in their fall, and who will never deck the green sod that now covers them. Pardon me, sir, for so often referring to our exclusion. I wish that great fact to stand out in bold relief, like the summit of some lofty mountain overpeering all others, that the south has been excluded—driven out from it. The north said she should be, and she has been, and there is the end of it.

And is it for this that we have been called upon to rejoice! To kindle bonfires in the streets! Was it for this that the booming of cannon has been heard amid the stillness of midnight! Sir, let others rejoice if they can; let them sound the trumpet and ring the bells; let them make the hoarse artillery to speak; but, for my single self, I cannot rejoice. My heart is too sad and sorrowful. It would break sooner than rejoice.

Mr. President, there is another thing this heart of mine will never do. It will never grow cold towards those southern friends who may have felt it their duty to vote for any of those territorial bills, which I have disapproved. I know too well their devotion to the Constitution—to the Union—to the south. They have done what they believed to be best under all the trying circumstances of the case, and I hail and welcome them home, with unabated confidence and friendship. Compelled to cast their votes amid the fire, and smoke, and suffocation of a wild fanaticism on the one hand, and the most vehement threats to dissolve the Union if something was not done, on the other, what wonder were it if all their votes should not have been cast precisely right, in the emergency

of the moment! We are now examining their measures after the smoke of the conflict has dispersed, and as no man knows what votes he might not have cast, in order to secure the unity of this great nation, when he believed it was in danger, so let no man yield himself up to the foul spirit of intolerance. Besides, sir, this fatal war on our rights has only just begun. The enemy has only carried our outposts. They have drawn a cordon of non-slaveholding States around us by the late bills, and are now only waiting for the new apportionment to give them an increase of strength, and for the arrival of their new levies from California, Utah and New Mexico, to make a fresh onslaught upon us—on the abolition of slavery in the States—in the District of Columbia—in the forts, arsenals, &c. of the United States—the prohibition of the transfer of slaves from one State to another. When that time shall come, we shall need that there should be no estrangement among the men of the south. "Shoulder to shoulder, and with shield locked on shield," we must then stand or fall together. Till then let no division of opinion make divisions in friendship.

There is yet another thing this heart of mine will not do. For nothing in the past, great as have been our wrongs, will beat one pulse the less of ardent devotion to the Constitution and the Union. My motto now is, endurance of the past, resistance for the future. The past can be endured. Though it demand all the forgiveness of the Christian, and all the forbearance of the patriot, it nevertheless can be endured. The future, I awfully fear, cannot. When you shall hear that the most solemn covenants of the Constitution are broken by lawless mobs, and your fellow-citizens imprisoned for demanding the restoration of their property—demanding it too, with the late fugitive slave bill in the one hand, and the Constitution of the United States in the other—when you shall see the beacon fires blazing all along the mountain border of Maryland and Virginia—all along the shores of the Ohio—as signals for the flight and escape of your property—when military detachments shall have to be sent, night after night, to the protection of your homes and your families—when every fire-bell at night will make the mother clasp her infant closer to her bosom—how can you endure this, and more than this? In such

a future, who then can talk of a Constitution with its violated covenants, or of a Union with all its shattered fragments strewn around us ! The great law of self-defence will then be all that is left us. It is the law by which even the reptile resists the invader. Under that law, whether to be found in the reserved rights of the States under the Constitution, or in the admitted right of revolution, I care not—under that law of self-preservation, the States will have to fall back upon their full original sovereignty, and provide again “ for the enjoyment of life, liberty, and property.” God grant, however, that the dark future which I have portrayed may never come. On the contrary, may it come to us crowned with peace and fraternal concord ; may it come with the Constitution still unbroken, and the Union, with adamantine strength, still bespangling the continent, from ocean to ocean, brighter and more glorious than ever. To such a Union I owe a perfect and perpetual obedience—to such a one I will adhere, and adhere to the last, like the gallant sailor, when about to be driven from the vessel which he had long defended, when he had been driven over the very side of his ship, he seized it with his right hand, when that had been cut off he seized it with the left, when that had been cut off he seized it with his teeth, and so went down with it to the bottom. Sir, I say this of that Union which now is—of that Union which Washington, and Madison, and Pinckney, and the Rutledges gave us. But to that Union which may be yet to come—to that Union which would deprive me of my property, which would beggar my children, which would fire my dwelling, and spread around me all the horrors of a servile war—to a Union which would deluge “ my own, my native land” in one vast sea of blood—by Heavens, I owe it no allegiance !

Sir, it was upon this great principle that the Tennessee resolutions were constructed : That we will abide by the past—by the late legislation in Congress—with that fidelity which has always distinguished the south. But, at the same time, we solemnly affirm that our cup is full—we can drink no more. Will those who propose not to abide by the past, but to strike, and to strike now, will they hear from me one argument against this rash and perilous deed ? Who are here ? Call Mary.

land, call North Carolina, call Missouri, call Arkansas, call Louisiana, call Kentucky.. Do they answer? No, not one of them. Who, then, *are* here? Virginia answers with one lone solitary voice. Virginia, whose trumpet notes have so often called the sons of the south together against all and every encroachment on the rights of the States. Where are all her mighty men, that they do not come up to the great work which you propose to do? Look too, to the falling off of that crowd of patriotic men who thronged these halls even at your last session! From Alabama, where is Campbell, and Coleman, and Davis, and Cooper, and Winston? From Mississippi, where is Mathews, and Boyd, and Sharkey, and Clayton, and Wilkinson?

Sir, there must be some good reason for all this. Let us look facts directly in the face, and they will tell us that since our last meeting great doubts have arisen in the minds of our southern brethren, as to whether the late legislation of Congress has not been such as ought to be satisfactory to the south; at least, so satisfactory as to supersede any further action of this body. Sir, we do know that these doubts do exist. Look to your own State—look to Mississippi—look to the accounts from Louisiana. What do we find? I pray you answer me the question: what do we find? Our own southern people divided about equally on the subject. Here I pause, to ask of every man who now surrounds me, is it wise, is it just, in such a divided and distracted condition of the southern mind, to venture on so bold a measure? And is it not a bold measure to proclaim that the deep foundations of this government are to be broken up and a new one to be erected on its ruins! Let me tell the gentleman from Virginia (Gen. Gordon) that when the news shall reach that ancient commonwealth, it will shake the very walls of her capitol, and the statue of Washington will tremble on its marble basement. When this great nation shall be passing through the agonies of dissolution, her dying groans will be heard through half the habitable world. Her fall, like that of Jerusalem, will be preceded by signs in the heavens and commotions on the earth; a sword will be seen in the sky, a great comet will blaze over her, and armies in battle array will be seen amid the clouds. On earth

you will hear and feel the earthquake tread of a mighty people, coming up to a larger council than this. Until we see this latter sign, at least, let us not proclaim that her end draweth nigh. In the spirit of the Tennessee resolutions, let us rather proclaim: Not yet! not yet!—no *never* shall this republic end until the sovereign people who created it, in one one grand united council, shall pronounce its doom.

## TENNESSEE RESOLUTIONS.

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In Convention, Nov. 13, 1850.

Gen. PILLOW, of Tennessee, offered the following preamble and resolutions, which were read and referred:

Whereas, since the adjournment of this convention, in June last, bills have been passed into laws by the Congress of the United States for the admission of California into the Union as a State, for the settlement and adjustment of the boundaries of Texas, and for organizing territorial governments for Utah and New Mexico; also bills abolishing the slave trade in the District of Columbia, and for the recovery of fugitives from labor; with the view of making known our opinions on these bills, and the steps to be taken by the South upon them, therefore—

1. *Resolved*, That although said bills fall short of that measure of justice to which the South, in our opinion, is fairly entitled, yet as the same have become the laws of the land, and for the purpose of giving the highest proof of our attachment and devotion to the Union, this convention hereby declares its willingness to abide by them with that fidelity which has distinguished the South on all former occasions.

2. *Resolved*, That this determination to abide by the late legislation of Congress aforesaid, is predicated on the express condition that the North shall faithfully carry it out on her part, according to the spirit and true meaning of the same.

3. *Resolved*, That this convention does distinctly understand, that according to the spirit and true meaning of said legislation, it embraces all the action which the North proposes to take in relation to slavery, and that in addition to the subjects expressly provided for in said bills, no attempt will hereafter be made by the northern people to deprive the South of the representation secured to her in the Constitution, or to abolish, directly or indirectly, slavery in the District of Columbia or in the States, nor to prevent

the transportation of slaves from one slaveholding State to another by their lawful owners, nor to prevent the admission of any new State on account of the toleration of slavery in its constitution.

4. *Resolved*, That in view of the sacrifices to which the southern States have heretofore submitted, and to which they are further subjected by agreeing to abide by the bills lately passed by Congress, they have a right to demand, and do demand, that all agitations and aggressions on the part of the North upon the subject of slavery, shall instantly cease; and that the repeal of the fugitive slave bill, or any alteration of it which may render it less effectual in its objects, must of necessity render all further association as friends and brethren utterly impossible.

5. *Resolved*, That if the people of the northern States, by voluntary associations or otherwise, shall continue to obstruct and prevent the execution of the fugitive slave law, thereby depriving southern citizens of their property and giving encouragement to other slaves to escape from service; or if they shall commence a system of agitation with the view and obvious purpose of abolishing slavery in the District of Columbia or in the States, or of depriving the South of the representation of three-fifths of her slaves to which she is now entitled under the constitution; or of prohibiting the transportation of slaves from one slave State to another; or of excluding from the Union any new State on account of the toleration of slavery in its Constitution, then this convention earnestly recommends to the people of the South to resort to the most rigid system of commercial non-intercourse with all such States, communities, and cities, as shall be found so offending against their constitutional rights. For this purpose, we earnestly invite the Legislature of every Southern State to unite with us in this recommendation; and that in every State, and county, and town, and neighborhood, resolutions may be adopted not to purchase or use, as far as practicable, any article whatever known to have been produced or manufactured in any such State, community, or city, or to have been imported into the same for sale. In further aid of this object, we earnestly recommend to the southern States, and their people, to encourage, by all the means in their power, their own mechanics and manufacturers of every description—to push forward all their railroads and other internal improvements connecting them with their best exporting and importing cities on the Gulf and on the Atlantic. We make these recommendations in no spirit of revenge, but as a just and necessary means of self-defence, to be persisted in only until the rights secured to us by the constitution shall be respected.

6. *Resolved*, That if, contrary to our understanding of the several bills aforesaid, the Congress of the United States shall at any time repeal or so alter or amend the fugitive slave law as to render it less efficacious than it now is, or if it shall pass any bill abolishing slavery in the District of Columbia, or abolish it directly or indirectly in the States, or if the present basis of slave representation as secured in the constitution be obliterated, or if the

transportation of slaves from one slaveholding State to another be prohibited, or if slavery in our present territories shall be prohibited—in either of these events this convention earnestly recommends that the Legislature of each southern State be forthwith convened, for the purpose of calling a convention in each State, and that delegates to be appointed in such manner as shall be determined on by said conventions, may meet at such time and place as may be agreed on, with full power and authority to do any thing and every thing which the peace, safety, and honor of the South may demand.

## NOTE.

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Wishing to preserve the leading facts in relation to the Tennessee resolutions, reported by Gen. Pillow to the Southern Convention, we have enquired and found them substantially as follows:

On Monday, 11th November, 1850, the Tennessee delegates met at Mr. Southall's office in Nashville. Maj. Wm. H. Polk moved that Gov. Brown and Mr. Nicholson be appointed to prepare and present resolutions, such as they might deem it proper for the delegation to present to the convention.

On Tuesday morning, Gov. Brown and Mr. Nicholson met at the room of the latter, in the Nashville Inn. Gov. Brown presented a series of resolutions which he had drawn up, and read them over. Mr. Nicholson desired the word "far" to be stricken from the first resolution, so that it might read, "although said bills fall short of that measure of justice," &c., stating that there were different shades of opinion in the State as to the degree which the bills fell short; and so to harmonize conflicting opinions as far as possible, he moved to strike out the word "far," to which Gov. Brown assented, and the same was stricken out accordingly.

On Wednesday, the resolutions were reported by Mr. Nicholson, but read by Gov. Brown, as they were in his handwriting. On motion of Mr. F. McGavock, and after some discussion, in which Mr. Claiborne, Maj. Polk, Mr. Stevenson, Gen. Hardin, Mr. McLaurin, Mr. Southall and others, took part, the following words in the first resolution were stricken out, to wit: "and because the same are presented to us as a compromise and come recommended to us by the sanction of so many southern votes." After some other slight and rather verbal amendments, the same were adopted and ordered to be reported by General Pillow, there chairman.

EDITORS OF THE AMERICAN.

## ADDRESS

### *Of Ex-Gov. Aaron V. Brown, to the public, previous to the Meeting of the Southern Convention.*

We have the pleasure of presenting our readers to-day with an eloquent and patriotic letter from Ex-Gov. A. V. Brown, on the exciting question of the day. Coming from one whom the Democracy of the State have long delighted to honor, it will exercise an important influence throughout the State. Though mild and temperate, it is yet a firm and dignified defence of the motives of the friends of the Southern Convention, and we believe that it very nearly expresses the views of the advocates of the Convention in this State. We commend it especially to the perusal of our whig friends, and of all those who talk of "disunion" as the motive of the Convention:—*Nashville Union.*

NEAR NASHVILLE, APRIL 10, 1850.

Mr. E. G. EASTMAN—Sir: I noticed in one of the whig papers of your city, during my recent visit to the south, that in advocating the appointment of delegates to the Nashville convention and in vindicating the purposes and objects of that convention, you were charged with acting in advance of the old and experienced members of your party; and amongst such, my name was introduced in a manner calculated to make the impression that I was not in favor of the convention. I shall be compelled to be again absent from the State for the next month, and can therefore take no part in any public discussions which may take place between the present time and the period (first Monday in May) designated for the appointment of county delegates to attend said convention. Unwilling to leave this rebuke of your course unnoticed, and

unwilling to be absent during the animated discussions now going on in relation to said convention, without leaving the most unmistakable evidence of my opinions behind me, for the consideration of all persons who may feel any interest in knowing them, I have concluded to address you this letter.

I know nothing more of the objects and purposes of calling said convention, than I have learned through the public press, detailing the proceedings of State conventions, the resolutions of State legislatures, and of primary assemblies of the people who have acted on this subject. All these, with no remembered exception, announce the objects and purposes of the convention to be eminently patriotic and entirely consistent with the preservation and perpetuity of the Union. Not one of them avows or intimates the slightest purpose of dissolving it. In the face of avowed *good* objects I will not presume *bad* ones against the men already appointed and who are coming up to Nashville from the fifteen States of the South, an equal number from both political parties, and who have given evidence of the highest devotion to the Constitution and the Union. Take, for illustration sake, Chief Justice Sharkey of Mississippi. He presided over the first convention that was held, and is, I understand, coming up with Judge Guion, and other whigs, to the convention. Now, would it be at all right or proper in me to set aside their distinct and clear announcement of their motives in coming, *and presume* against them the darkest and blackest crime which an American can possibly commit? So I might enumerate the names of eminent whigs from other States, who have led the vanguard of their party at home, in many a hard fought battle, and who are coming up to Nashville covered with the scars of party warfare; wounds and scars received when some of those who now assail their motives and their honor, were but puling infants in their cradles. Can I do these men, although differing from them as I do in politics, the crying injustice which some of their own party editors are doing in this State—of denouncing them, in advance, against their own express declarations on mere suspicion, as traitors and disunionists? I cannot, and will not perpetrate such an outrage against either the whigs or democrats who have been or may be appointed to said convention.

I will *presume* their motives and purposes to be such as they *declare* them to be, until they shall assemble, and by some unpatriotic act *prove* to the contrary. This is the rule of law and of the public press with regard to every accused felon, the highwayman and the murderer. The press never denounces them as such in advance, but presuming their innocence, be-speaks for them a fair and impartial trial.

If it be alleged in extenuation of the crying injustice now every day being done by the whig press to the eminent whig delegates that are coming up from the other fourteen Southern States, that they do not impute such unpatriotic purposes to Judge Sharkey and the great body of other whigs and democrats who have been appointed to the convention—but only to a portion of them, the “Hotspurs”—the “madcaps” of the south—the answers to such plea is most evident, that the number of such must be very small, and that wise and prudent men of both parties ought to be sent there, and to be in full attendance, *to vote down* instantly any and every extreme and unpatriotic proposition, which such men might offer.

If it be true, as we often hear, that “there are fanatics on both sides of Mason and Dixon’s line;” it is only proof of the greater necessity for the wise and conservative men of both parties, whigs and democrats, in the face of such formidable difficulties, to mingle more freely together, and by joint consultation save both the Union and the rights of the South against the united attacks of these alleged fanatics. How will the whigs of Tennessee feel, when that convention shall have met and proceeded to business, and when they may see their political brethren from the other fourteen States, as well as the democrats, in close and hard struggle against both these sets of fanatics, and nothing wanted to secure an easy and triumphant victory over both, but a full delegation from their party in the State, to assist by their counsel and their votes in its achievement? I state the whig argument on this point in its full force, in order to furnish its refutation, not because I believe that there is any material portion of the people of any State, or that a single delegate from any State, whig or democrat, will be in favor of dissolving the Union. That any such result is likely to grow out of the convention is refuted by

every thing that the whig editors of the State have ever heard or known or read of the American people. I doubt much if all of them put together ever saw twenty men out of the millions they have seen who were hostile to the Union. It is refuted every time they cast their eyes over the names of the delegates already appointed from the different States. It is refuted by their daily intercourse with their neighbors with whom they transact business and interchange personal and social civilities, which necessarily imply confidence and esteem. This they could not do, if they really believed that those who are favorable to this convention were traitors and disunionists.

If they believed it, they would shun and avoid every man they met with—

“As one who sees a serpent in his way  
Glistening and basking in the summer ray,  
Disorder’d, stops, to shun the danger near,  
Then walks with faintness on and looks with fear.”

And yet I do not mean to charge these gentlemen with any disposition wilfully to misrepresent the designs and purposes of this convention; far from it; but I fear that they have not yet sufficiently waked up to the magnitude of the perils which now encompass the south, nor made a sufficient effort to throw themselves out of the habit of taking a party view of almost every subject which may come up under their review.

I have thus far given you my opinions as to what this convention *was not called for*. I now propose to trouble you with a few observations as to what was expected to be accomplished by it.

For years the north has been attempting to interfere with the rights of the south in relation to our slave property. The attempts were weak at first, but grew stronger ever session of Congress, until from the presentation of petitions, they advance to the introduction of bills, embracing the Wilmot proviso, the abolition of slavery in the District of Columbia, and in all the public establishments of the United States, and to the prohibition of the transfer of slaves by their rightful owners from one slave State to another. These measures were actually pending before Congress in some shape or other and under fierce

and daily discussion in that body. The Wilmot proviso had actually passed one House, and the success of all of them every day becoming more and more problematical. In this condition of things, the south became seriously impressed with the danger of her condition.

The unconstitutionality of most of these measures, the inequality and injustice of all of them, occupied much of her attention, and the probable consequences of their passage through Congress on her peace and safety, produced the most thrilling and anxious solicitude. In this condition of things, one public journal would express one sentiment as to what it was proper to be done, whilst another would suggest altogether a different mode of warding off the threatened and suspended blow. So of the public men of the south, in Congress, in State legislatures, before assemblies of the people; some were *too hot* under these assaults on our rights, others *too tame* and submissive; amid this confusion of sentiments many wise and good men of the south, both whigs and democrats, equally involved in the injurious consequences of the proposed legislation against our rights, for the double purpose of making a firm, united appeal to our northern brethren to forbear these invasions and also of giving moderation and harmony of action amongst the people of the south in their opposition to these measures; resolve on calling the convention. The north had called many conventions, more or less large, in order to give force and energy, and harmony amongst her own people *in favor of* such legislation. The south could see no good reason why she should not also meet in convention to devise the best means of *preventing or defeating* such legislation. But there is a striking difference between the two parties.

The north has only to get a *united vote* of her own members in favor of these measures and they become the laws of the land, whilst the south has not only to get a united vote of her members against them but must make such united, firm and rational appeal to the justice and magnanimity of the north as may prevent this unanimity in her vote. It was mainly to make this appeal, in no degrading spirit of truckling submission, nor yet in the tone of blustering bravado, that the approaching convention was called. If held *before* the passage of these obnoxious

laws, the convention can take up each bill by itself and set forth faithfully how it would operate on the peace, safety and prosperity of the south. A powerful document like this, prepared with ability, moderation and firmness, would be every where read and could not fail to work a most happy influence. When the whigs of the north should hear from the whigs of the south through such a document how ruinously these measures would operate on them, their families and property; when the democrats of the north should hear the same thing from their brethren of the south, it was sincerely hoped that they would forbear all further meddling with our rights and leave the Constitution and the Union precisely as it was bequeathed to us by the fathers of the republic.

I know well how readily the opinion may be entertained and advanced that there is no likelihood that such an appeal would bring the north to an abandonment of their purpose. Still it can do the south no possible harm to make the experiment—to exhaust the whole stock of reason and argument in the praiseworthy endeavor. We may be too sanguine of the result, but surely there can be no reason for branding us as traitors and disunionists for making a fruitless effort to prevent, by reason and argument, what these opponents of the convention declare they will resent, by flying to arms *after* the proposed laws shall have been passed: Look to all they said and wrote through the last summer and winter, and see how uniformly they declare that if these laws shall be actually passed and carried into execution, they would *then* resist at every hazard and to the last extremity. This convention proposes to say something or do something before it comes to this "last extremity," and is therefore hallowed and sanctified by a greater devotion to the peace, constitution and Union of the country than their own proposition. If any portion of the south, not believing in the efficacy of this mode of trying to avert the calamity, should stand by unassisting in the movement, it might not be so strange; but for them to turn upon us and denounce us an hundred times oftener and with epithets infinitely more abusive and disgracing than those of our oppressors, is more astounding than anything heretofore exhibited in the history of party warfare.

The argument is often used against the convention, that in

all probability before the first Monday in June all the slavery questions now agitating Congress will be amicably compromised and settled. Well, if they are the convention need not meet, or meeting will gladly confirm such compromise if thought proper, and sincerely rejoice in the renewal of those amicable relations which have heretofore carried the nation to so high a degree of greatness and prosperity. But if not then settled, some scheme or plan of settlement may be pending, on which it may be of the highest consequence that such a convention should give a wise and prudent expression of opinion. Or the convention might itself present a scheme and plan not yet offered, which would give peace and repose to a now agitated and distracted country. What may not a heart beating high with attachment to the country, to the Constitution and the Union hope for from the united wisdom and patriotism of both of the great parties of the south, in the great crisis which will then have arrived? To turn the noble efforts now making to give to the south all the benefits of that united wisdom and patriotism, into the narrow and contracted channel of party, is madness—is death to her dearest rights and interests. Those who have sanctioned and advocated this convention cannot and will not recede. A great and difficult work lies before them. A work in which the whigs of the south have as deep an interest as those of the opposite party. If they will not unite and help us, we will do the best we can by ourselves. The same calamities which await us must fall on them. But if, insensible of the danger, they do not cheerfully come to our aid, we shall nevertheless rejoice to secure them by the same acts and deeds by which we secure ourselves and families. But whilst we are trying every plan and doing every thing which we suppose may be calculated to save the south, we have a right, a just and reasonable right, to ask them to cast no imputation on our motives—to deal out no more denunciations against us as traitors and disunionists, until the convention shall have furnished, by its acts, some evidence of the fact. We disclaim every such purpose. We disclaim it for the democratic party; we disclaim it for the hundreds and thousands of the whig party who are co-operating nobly with us; and when that convention shall assemble, the wisdom, calmness and

patriotism of its deliberations and resolves, in my opinion, will be the proudest vindication of its devotion to our country, its Constitution and the Union.

Very respectfully, your most obedient servant,

AARON V. BROWN.

## LETTER

*Of Ex-Gov. Aaron V. Brown, on the late Southern Convention,  
in June, 1850.*

TO THE EDITOR OF THE NASHVILLE UNION:

SIR—It was my intention to have addressed you this letter after the rise of the late Southern Convention, in order to give my fellow-citizens of the Tennessee delegation, for whom I acted in part, on one of the most important committees of that body, (and most of whom retired early in the session,) some connected and condensed account of its final action. Unavoidable delay in its preparation had almost induced an abandonment of the idea, when the appearance of Mr. Nicholson's letter, my colleague on the committee, remitted my mind back to its original purpose. The language accidentally used by Mr. Nicholson in the early paragraphs of his letter too nearly conveys the idea that the minority report and the views and positions taken in it were personal entirely to himself, which makes it both necessary and proper for me here to remark, that it was signed not only by Mr. Nicholson, but by myself and one of the delegates from each of the States of Alabama, Florida and Arkansas, and contained of course the views of all of us. It grew out of the discussions which had taken place in the committee room, in which I maintained, that we were not charged with the performance of that duty—that I doubted much both the necessity and propriety of the convention sending out an address at all. That our resolutions and their preambles stood in need of no address—no commentary, to elucidate and explain them. That the series of resolutions

constituted the very acts and doings of the convention, which we had prepared with great care and thoughtfulness, and on which I thought the convention might proudly stand and challenge the scrutiny and criticism "of genius, of talents and of time." But if we sent forth a long address—a mere speech—argument—commentary or whatever else it might be called, the enemies of the convention, instead of attacking the resolutions themselves, would recoil from such a bomb-proof battery as we had erected, and turn aside to assault outer works of minor importance, and indeed in my judgment of no importance at all. We have already witnessed much of what I then anticipated in my argument before the committee. What have we yet heard said, or seen written against the *resolutions* of the convention? Almost nothing at all, whilst the hostile presses of the country, or many of them, are making points of petty criticism not on the resolutions, which are the real actings and doings of the convention, but on the speech—the mere commentary on the resolutions. How much more intelligent and statesman-like would it be, to let slight errors and mistakes in the commentary alone, unless they could find them also existing in the original text. But my views against sending out any address at all, were not embraced by a majority of the committee, and when they were in the act of agreeing on the address as reported, I announced to the committee that no recourse was left to those who could not concur in the address but a minority report, which they would present in the morning, but in no spirit of irritated temper and with no view of disturbing the future harmony of the convention. The presentation of it next morning by Mr. Nicholson, took no member by surprise, nor was it considered by any one, I believe, in any other light, than as a prudent and proper mode of putting the members who signed it "right upon the record." As the objections taken to that part of the address, which related to the report of the Committee of Thirteen in the Senate, were general, I think proper here to specify the most important ones which presented themselves to my mind. I considered that many of the expressions, and indeed the general tone of that part of the address might be taken as an unkind rebuke of the members of that committee. I had no heart to rebuke them myself. I had

approved the persevering exertions of that senator who was so instrumental in its creation. I had approved the selection of distinguished men who had served upon it. I had waited with anxiety for the day which should usher the result of their labors before the country. At last their report was presented, not such as I had hoped it would be—not such as without amendments I could approve and sanction—but yet so infinitely superior to the northern measures, which it was intended to supersede, and so susceptible by a few amendments of being made acceptable to the south, that I did hail it as a measure which when perfected would give peace and repose to the country. Under these circumstances I could not consent to administer the slightest rebuke to the members of the committee, nor to censure in such unqualified terms the propositions which they had submitted.

The presentation of our minority report, had the effect of instantly attracting the attention of members to those parts of the address objected to, which resulted in a general and almost spontaneous agreement to amend on the motion of Gen. Pillow, by striking out many of the most objectionable expressions in that part of the address. Still, with even this purgation, I could not consent to vote for it, (the address) until it was so amended as to show expressly on its face that there were many members not yet satisfied with it. So amended, I was willing and did vote for it—because whilst it gave others the opportunity to speak out whatever opinions they entertained against the report of the Committee of Thirteen in the Senate, it effectually protected me against all responsibility for them. I had yet another reason higher and stronger than all for finally voting for the address. It had been amended in one great and essential particular—more important in my humble judgment than all the other amendments put together. That is to be found in the last one of Gen. Pillow's amendments. All the others had been prepared by him, and I was appealed to, to know if they would reconcile me to vote for the address. I advanced to the table, wrote it down, and then declared "with that inserted I was ready to vote for the address." The General adopted it into his series—the committee with slight variation approved and reported it, and the convention adopted it. This

amendment in substance declared, that while the convention regarded the Missouri Compromise as an extreme concession, they did not mean to demand it as an ultimatum, but that the south would acquiesce in any other adjustment which secured to her substantially the same rights and privileges. I hailed this amendment with the greatest pleasure, because it clearly indicated no wish to supersede the patriotic labors of the committee of the Senate as far as they had gone, but that the convention was perfectly willing to see it perfected by amendments, which would make it equivalent to the Missouri Compromise, in the advantages secured to the south. For myself, it would be among the last of my wishes to see that bill superseded and voted down, even if the Missouri Compromise, in its very words, were substituted in its stead. I had much rather see that or its equivalent inserted as an *amendment to the present bill*—so that its identity might be preserved, reflecting light and honor upon the names of its distinguished authors. They are entitled to it, and I know nor feel enough of party rancor in reference to any of them, to withhold the meed of merited praise.

The Missouri Compromise, as the standard or measure of concession to which the south might submit without dishonor, was no new doctrine with me. I had seen the beneficial results of that compromise in the admission of Arkansas and Florida, two slave holding States, without any serious opposition by the north. I had seen the same line extended through the territory of Texas when annexed to the United States with the happiest influence on the country. Under the light of such experience, in my messages to the General Assembly and in all my popular addresses to the people of Tennessee in three arduous canvasses—at all times and on all occasions, I have advocated the line thirty-six degrees thirty minutes north latitude as a just and reasonable line of partition. But I am free to declare that I have never seen the day or the hour when I would have conceded *more* than this or have fallen *below* that measure of concession. The despotism of numbers may muster all her forces—fanaticism may kindle all her fires, the fairest fields of the south may be desolated, before I will consent to add dishonor and degradation to the other wrongs of

the south. But I do not mean to deal in any trifling play of words, when I advocate and assent to the Missouri compromise. I do not demand it in *hec verba*. I look rather to the true nature and substance of things, and whenever the south shall be tendered an adjustment which shall be *equivalent* to that compromise, I for one shall not hesitate to advise its acceptance. Having stated that I was in favor of the present bill, with amendments, I will proceed frankly to state what amendments, in my opinion, would make it equivalent to the Missouri Compromise, and therefore acceptable.

In the first place, I would remove *every shadow of doubt* from that part of the bill which relates to fixing the future boundaries of Texas, by expressly declaring that the territory proposed to be ceded to the United States, should be slave territory in her hands precisely as it now is in the hands of Texas. To such an explanation none could object, except only such as were resolved not to abide by the express terms and conditions of annexation. This would leave the Missouri line of thirty-six thirty established as far west as the Rio Grande.

In relation to California, I would admit her into the Union with the brief but expressive proviso, that her southern boundary should be thirty-six thirty to the Pacific Ocean; I would waive the irregularity of her application—all imputed executive dictation—all doubts of the citizenship of those who participated in the formation of her constitution. I would do more than this—I would admit her as a State larger than Pennsylvania—than New York—than Virginia, but I would not consent to give her the whole Pacific coast to herself.—South California does not and never did desire it. Her people have often and solemnly protested against it. Besides, we have many reasons to believe that the people of California, anticipating objections to her enormous boundaries, have authorized her representatives to accept any alteration that may be made, and instantly to take their seats in the halls of Congress. If, however, this be not so, the delay of a few months cannot be very prejudicial to her; and if it were, she may well deserve it, for attempting—by making such unreasonable claim of boundary—to influence a great political and local question of the Union, when she was not yet a member of it.

This curtailment of the boundary of California would make it necessary to create a territorial government for South California. This, and the two others provided in the bill, disposes of the whole country acquired from Mexico. Now what shall be applied to it? The north answers, the Wilmot proviso, excluding slavery from every part of it. The convention replies that to this she never will submit, but further says in the spirit of compromise and "in consideration of what is due to the stability of our institutions," she will concede to its application as far as to latitude thirty-six thirty, as she had done on two former occasions, or she will concede to any *equivalent* compromise. Now the Committee of Thirteen, in the high and delicate character of mediators between the contending parties, reject the Wilmot proviso altogether, and present the Clayton compromise substantially as the basis of settlement. What was the Clayton compromise? Simply that Congress should organize territorial governments for the country acquired from Mexico, neither admitting nor excluding the introduction of slavery into any portion of it; leaving slavery to spread itself over all and every part of it, if it could do so consistently with the Mexican laws abolishing slavery. Whether these laws did or did not abolish it, or if they did, whether they were still in force, were questions under the Clayton compromise left to the decision of the Supreme Court of the United States. And so they are by the present bill, and my opinion has been proclaimed to the people of Tennessee in more than fifty public addresses, declaring that all such Mexican laws stood repealed the moment that country passed "beneath the wing of the eagle." Whether the Clayton compromise be equal to the Missouri one, depends entirely upon the correctness of this opinion.

Fortunately, however, the convention decided this question for itself, and demonstrated, I think conclusively, that there is now no law whatever in the territories acquired, excluding slavery from them, and that of consequence the Clayton compromise (substantially that of the bill now pending before Congress) is an ample equivalent to the Missouri Compromise. The following are its resolutions directly on the point:

19. *Resolved*, That the whole legislative power of the United States gov-

ernment is derived from the Constitution and delegated to Congress, and cannot be increased or diminished but by an amendment of the Constitution.

20. *Resolved*, That the acquisition of territory by the United States, whether occupied or vacant, either by purchase, conquest or treaty, adds nothing to the legislative power of Congress, as granted and limited in the Constitution.

21. *Resolved*, That the adoption of a foreign law existing at the time in territory purchased, ceded or granted, is the exercise of legislative power, and cannot be done unless the law is of such a character as might rightfully be enacted by Congress under the Constitution, without reference to its pre-existence as a foreign law.

22. *Resolved*, That the alleged principle of the law of nations recognizing, to some extent, the perpetuity of foreign laws in existence within a territory at the time of its acquisition by purchase, conquest or treaty, cannot, under our Constitution and form of government, go to the extent of continuing in force, in such territory, any law that could not be directly enacted by Congress, by virtue of the powers of legislation delegated to it by the Constitution.

23. *Resolved*, That no power of doing any act or thing by any of the departments of our government, can be based upon the principles of any foreign law, or of the laws of nations, beyond what exists in such department under the Constitution of the United States, without reference to such foreign law or the laws of nations.

24. *Resolved*, That slavery exists in the United States, independent of the Constitution ; that it is recognized by the Constitution in a three-fold aspect : first, as property ; second, as a domestic relation of service or labor under the law of a State ; and lastly, as a basis of political power. And viewed in any or all of these lights, Congress has no power under the Constitution to create or destroy it anywhere ; nor can such power be derived from foreign laws, conquest, cession, treaty, or the laws of nations, nor from any other source but an amendment of the Constitution itself.

If it be asked, if these were our views, after indicating them as we did by our minority report, why we did not press them in argument before the convention and reject the address, the ready answer is to be found in the fact that we were *in a minority*—a minority ascertained to be too small to give promise of success in full convention. Situated as we were, all we could accomplish after the convention had declared for the Missouri Compromise, was to prevail on them further to declare that they would acquiesce *in any other* adjustment equally favorable.—This being done, we conceived that the bill pending before Congress did not stand necessarily suspended or condemned by the convention, but was still open and susceptible of im-

provement until it should become a satisfactory equivalent.—Then, and not till then, did we withdraw from the unequal contest about the address, and permit it to go with the declaration on its face, that we were not satisfied with a portion of it.

Judging from the published debates in Congress, I doubt much whether the amendment I have indicated will be adopted, or indeed whether the bill will be passed at all. I rejoice, therefore, that the convention has declared for the Missouri line as a definite and specific compromise, in which the south will be willing to acquiesce. This is precise and unmistakable, and will constitute, I trust, a great common rallying point, where all the friends of the south can meet with that perfect unanimity of sentiment which characterized the convention in adopting it. In taking the vote upon it, no discordant note was heard throughout the spacious hall of her deliberations. The north will never see in its adoption the slightest evidence of a craven spirit of pusillanimity; she may rather discover in the unanimity of that vote the most solemn determination never to fall below her former concessions in any important or material particular. In convention I spoke for no State, no district, but only for those who were in favor of being represented there, and who kindly appointed me and others for that purpose.—But here I speak for myself, when I say that rather than see her fall materially below her former concessions—the Missouri—the Texas—the Clayton—the present compromise, when amended as I have stated it should be, I would advise her to resort to every sort of municipal regulation within the powers of the States—to quarantine regulations of the most annoying character—to every species of embarrassment to her trade and commerce. I would have every southern legislature earnestly to recommend to every merchant, trader, and factor, to forbear the purchase and traffic in a single commodity of northern manufacture; and to every farmer, and planter, and day-laborer of the south, forthwith to give up the purchase and use of any and every article of northern fabric—to give bounties and premiums for the establishment of factories of every sort and description throughout the southern States—to expend their last dollar in the construction of railroads, turnpikes and canals from every region of the interior to the best exporting

and importing cities on the Atlantic and the Gulf. I know well how ineffectual such modes of retaliation would prove in times of apathy and unconcern ; but when the proposed measures shall have been passed—when the Missouri Compromise, or its equivalent, shall have been rejected, and any harder or more oppressive terms shall be attempted to be enforced on the south, few men can tell the potency—the mighty power—which a well directed system of commercial non-intercourse, with the north can exert in times of high and general excitement. There is no need of *total* suspension of that intercourse; a *total* aversion to the purchase or use of any of her manufactures, to effect our object: 25 or 30 per cent. annually of her profits from southern intercourse and consumption, will waken up the whole commercial north to the disaster to themselves which further continuance of aggression must produce. Nor would all this be done in a wanton spirit of retaliation and revenge. Retaliation it would indeed be ; but it would be retaliation in self defence—defence of ourselves—our property—our families—our homes ! A retaliation sanctioned and approved by the great law of nature and of God, and never to be discontinued until it induced a change in the oppression of our adversaries. Entertaining the opinions which I do of the various means of retaliation, with a view to induce the north to do us justice, I never expect to advise her to any schemes of disunion—of secession—of nullification. The Union is my *property*—my inherited property—which I regard of great value. I never mean to permit the north to take it from me, nor to induce me by its aggressions to throw it away. I will contend for *that* property as soon and as long as for any other. There are many cases where the misconduct of partners might justify dissolution ; but even the injured partner, for various reasons, might well decline breaking up the concern, whilst he would choose not to submit, but to resent—to retaliate upon his offending co-partner until he should be more than willing to cease his unprofitable warfare on his rights.

It is too late now to insist that the Missouri Compromise is unconstitutional and cannot be voted for in the present contest. The whole system of northern interference with slavery is unconstitutional, and surely we may be allowed in self-de-

fence to arrest it at any point or degree of latitude we may be able. If we cannot save all, let us preserve as much of our rights as we may be able to do. Besides this, the convention places her concession to the line of thirty-six thirty, expressly on the ground of compromise—the compromise of a contested construction of the Constitution. Now what is there in the nature of the case to prevent such a question from becoming the proper subject of a compromise? The Constitution itself was the creature of compromise. Why may not a proper construction of certain clauses of it become so? To the resolutions of annexation in 1844-5, the clause was inserted excluding slavery north of thirty-six thirty, and yet the friends of annexation found no difficulties in afterwards giving them their support.—Why was this? Doubtless because they considered that the construction of the constitution on this subject had been compromised by their predecessors in the halls of Congress more than twenty years before, and no one felt constrained by his individual opinions (if it were a new question) to open afresh the bleeding wounds of his country. That compromise of constitutional construction extended to thirty-six thirty, and therefore as a precedent carries us no further. All beyond that is without warrant, without precedent, and utterly subversive of all equality among the States. Remember I am talking not about ordinary legislative or even judicial precedents. I am speaking of *solemn compacts* or *covenants* between large sections of the nation, in times of great exigency, when the Republic is in danger, and which are therefore more to be revered and observed than precedents of an ordinary character. I consider the compromise tariff, the Missouri, and Texas, and the present one, if adopted, to be all of that description, and to impose higher obligations for their observance. In confirmation of these views, let me remind you of the full response to them in the last message of the lamented Polk:

“ Considering the several States and the citizens of the several States as equals, and entitled to equal rights under the Constitution, if this were an original question, it might well be insisted on that the principle of non-interference is the true doctrine, and that Congress could not, in the absence of any express grant of power, interfere with their relative rights.—Upon a great emergency, however, and under menacing dangers to the Union, the Missouri Compromise line in respect to slavery was adopted.—

The same line was extended further west in the acquisition of Texas. After an acquiescence of nearly thirty years in the principle of Compromise recognized and established by these acts, and to avoid the danger to the Union which might follow if it were now disregarded, I have heretofore expressed the opinion that that line of compromise should be extended on the parallel of thirty-six thirty from the western boundary of Texas, where it now terminates, to the Pacific ocean. This is the middle ground of compromise, upon which the different sections of the Union may meet, as they have heretofore met. If this be done, it is confidently believed a large majority of the people of every section of the country, however widely their abstract opinions on the subject of slavery may differ, would cheerfully and patriotically acquiesce in it, and peace and harmony would again fill our borders.

"The restriction north of the line was yielded to in the case of Missouri and Texas upon a principle of compromise, made necessary for the sake of preserving the harmony, and possibly the existence of the Union.

"It was upon these considerations that at the close of your last session, I gave my sanction to the principle of the Missouri Compromise line, by approving and signing the bill to establish "the territorial government of Oregon." From a sincere desire to preserve the harmony of the Union, and in deference of the acts of my predecessors, I felt constrained to yield my acquiescence to the extent to which they had gone in compromising this delicate and dangerous question. But if Congress shall now reverse the decision by which the Missouri Compromise was effected, and shall propose to extend the restriction over the whole territory, south as well as north of the parallel of thirty-six thirty, it will cease to be a compromise, and must be regarded as an original question."

To the Missouri Compromise, I know it has been objected that it conflicts with the doctrine of non-intervention; that it is intervention on one side of the line and non-intervention on the other. Well, and suppose it is, can the south be blamed for that? Has she ever abandoned that doctrine? Mr. Nicholson tells us truly that "she has stood upon it and fought for it for years." She fought for it in 1820, when Missouri was admitted, but *could not stand*; but was compelled to fall back on non-intervention *south* of thirty-six thirty. She fought for it in 1844-5, on the admission of Texas, but again *could not stand*, and fell back on thirty-six thirty. What shall she do now, when she is sorely pressed a third time?—when the north is contending for the total exclusion of slavery from every acre of land acquired from Mexico and from every port and harbor of the Pacific?—now, when her zeal has been thrice heated from the burning fires of fanaticism and her insolence grown

more arrogant, from a consciousness that she has the power of numbers to sustain it? Now what was it becoming and proper for the south to have done? Still to demand the doctrine of non-intervention? Well, she did. Look to her first ten resolutions and see if she did not. She knew that it would be refused to her—on every former occasion it had been refused to her. What then? She knew—she felt, that the force and power of the two great precedents of Missouri and Texas would be brought to bear upon her, and therefore she frankly avows her willingness to abide by those precedents, and to be content on the spirit of compromise, and “because she considers it due to the stability of our institutions,” to establish non-intervention only *south* of thirty-six thirty. The voice of the convention is, on this point, the faithful echo of that of the late President, as we have just shown, and the sentiments of both the living and the dead are now blended in perfect harmony for the settlement of these great questions.

And what a commentary is all this on the violent assaults and charges made on it before the convention assembled.—With some, its purposes were dark and treasonable; whilst others, more charitable, attributed to it only extreme factious and partisan designs. During its deliberations, every body present and absent seemed to be looking out for some terrible, if not horrible explosion, or at least for some extreme and ultra demonstration, dangerous to the Union and to the country. Well, when it is all over—when they have met, resolved and gone home again, what have they done? Instead of some dreadful plot of disunion—of nullification—of secession—they have, *at the worst*, declared in favor of the Missouri Compromise, of which Mr. Clay himself was the putative author, and certainly its most eloquent and powerful advocate; a compromise, re-affirmed by all those wise and good men who lent a sanction to the annexation of Texas—a compromise, which it was the last public and solemn advice of President Polk should be adopted on this very occasion. This, I repeat, is *the very worst* they have done. And they did not even declare that this should be *the only* thing with which they would be content—no ultimatum—no extreme proposition—but a further and final declaration that they would acquiesce *in any*

*other adjustment* which might give equal advantages to the south.

With all these facts now faithfully recorded, has not the convention a right to ask for its deliberations a fair and impartial consideration? Is it fair and impartial for any man or any party in the south to review it as a hostile assemblage of enemies, whose virtues they would be slow to discover, and reluctant to admit, or whose errors, if any, they would be sure to exaggerate? Is it fair or impartial to overlook or to suppress all public approval of the great truths set forth in the twenty-seven or twenty-eight resolutions of that body, and with microscopic vision pick and cull from the address (which is always on such occasions scrutinized with less care) all the real or imaginary imperfections which it may contain? The resolutions of every such assemblage *are the real text*—authoritative and binding on its members—whilst the address is the mere speech sent out on the occasion—a sort of commentary of less authority, and indeed of such little authority, that it is often directed to be prepared by some individual or committee, after the adjournment has taken place. But these actings and doings of the convention are those of your friends, not your enemies. Leave then the work of *suspicious and prejudiced review* to your adversaries in the north. They will do it sufficiently, no doubt. In Tennessee especially, how ought this whole subject to be treated and considered? It was made a party question most unfortunately during the last winter, when, as any body can *now* see, it ought not to have been. Shall it continue so to be? If it shall be so treated here, and in some others of the interested States, no eye hath seen, no mind yet contemplated the fearful destiny which awaits the south—all classes—all parties of the south—one as much as the other; and when the fearful time shall come to which I now but faintly allude; when northern purposes owing to our dissension shall be fully accomplished; when nine hundred millions of your slave property shall be taken from you; when nine hundred millions more shall be lost by you in the depreciation of your lands; when a mortal struggle shall be going on amongst you for the extinction of one race or the other, (for the north is drawing a cordon around you,) then we or our

children on whom these calamities may fall, will look back and curse the hour, the infatuated hour, that ever made this a party question. In Tennessee, I say again, then, no public press ought to make it one. Every man that patronises any newspaper evidently disposed to do so, ought to go direct to its editor and require him to forbear ; should *demand* it of him, especially as due to the safety of his property, to the peace and security of his family.

The whig party of the State owes it to itself to review its former course upon this great and vital question. They now stand greatly separated from their friends in other States, many of whom they saw here, mingling their counsels freely with those of the other party, in a common cause and a common danger. What was the result ? They saw Judge Sharkey and others from different States, they saw the Tennessee democratic delegates through Mr. Nicholson and myself, advising a more conservative and conciliatory course than many, nay a majority were disposed to pursue. They applauded and approved, but did not and would not come to our assistance. How then can they be justified in complaining that anything went wrong in the convention ; that the resolutions were wrong ; that the address was wrong. It does not lie in their mouths to say it, so long as they stood aloof and would not come into convention to help us to make them better. But when the next convention shall again convene, as I greatly fear it may have to do, I sincerely hope that they will be there; both parties in full attendance ; to help by their joint counsels and joint wisdom to save the south, the Constitution and the Union. The great work is now begun. There is too much probability that the present bill presented by the Committee of Thirteen being amended and passed through the Senate, will be rejected in the House, and that the House bill, admitting California but composing and settling no other of the slavery questions, will pass that body and be rejected in the Senate. Thus Congress will have adjourned, having rejected both the Missouri Compromise and the present bill. If this should be so then surely all men of all parties will be willing to unite in that great work, at a crisis so imminent as will then exist. If not, then

all is lost; all of greatness or of glory which the south ever dreamed of in her future destiny.

But I must close this letter; my object has been to explain the position assumed by Mr. Nicholson and myself in the minority report, in favor of the present bill pending before Congress, with amendments. A position assumed by us under a full conviction, that such were the sentiments of a majority of those whom we represented. Also to vindicate and sustain the action of the convention in the series of twenty-odd resolutions which they adopted. How far I may have succeeded you and the public must judge.

Very respectfully,  
AARON V. BROWN.

## ADDRESS

*Of Ex-Gov. Aaron V. Brown, to the Law Class of the University, at Lebanon, February 15th, 1853.*

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GENTLEMEN:—I salute you as candidates for admission into one of our most learned and attractive professions: one that in every civilized age, has exerted the greatest influence on society, furnishing to human liberty some of her ablest champions, and to religion many of her most eminent votaries. It has stamped its peculiar image so distinctly on nearly every country in Europe, that the bar, without any great hyperbole, may be almost denominated the nation. In England especially, no sovereign ever has been, or will be able to exempt himself, in any great degree, from dependence on this profession. From it must be selected his Lord Chancellors, the equity and common law Judges of his superior courts, his ecclesiastical and colonial Judges, and a long train of other judicial functionaries. From it also have come her most eminent statesmen and orators, who have immortalized her Parliaments, and made British diplomacy the most successful in the world.

The influence and triumphs of the legal profession have been scarcely less signal in our country. In the old Congress that framed the Constitution, and in the State conventions that ratified it, the men of this profession stood out in advance, overpeering all others in extent and variety of learning, and in that bold and thrilling eloquence which the occasion so much demanded. If the mind flashes over a few brilliant names as exceptions to these remarks, because they are exceptions, they but confirm the well merited compliment to the founders

of the Republic. It has furnished every President of the United States except two, Generals Washington and Taylor. It has supplied a majority of every Cabinet, and a long line of Attorneys General. So it has done all the Judges of the United States, as well as of the respective States.

Such, gentlemen, is the profession, and such its honors and emoluments, which you are proposing to enter. Its prizes are large and captivating. Ambition itself could not ask that they should be more so. But they are not to be won as in a lottery, *by mere chance*. If they were, they would scarcely be worth the winning. If they were, dolts might be Lord Chancellors, and blockheads fill the places of a Marshall, a Kent, or a Story. There must be no chances reckoned on in the case. They must be the certain rewards of patience, industry, perseverance, and above all, of a high resolve of the mind, to be content with no mediocrity of attainment. Who would be contented with mere mediocrity? To throng the courts without a brief, a fee, or a client, and above all, not to deserve one! By you, who have the good fortune to enjoy the advantages of an institution like this, the very word mediocrity should be scorned. Nothing less than a proficiency which would qualify you for *any* office or station in life, should satisfy your lofty aspirations. Some of you may have to plead in the courts where the full, clear and persuasive eloquence of a Grundy still holds its magic spells over the hearts of his hearers; or where the fervid genius and profound learning of a Haywood, or the close and rigid logic of Crabb and William L. Brown, would rebuke that indolence which would fall below the master spirits of the law of an age just gone by. I allude to them because they are now no more, and because the voice of eulogy cannot be mistaken for that of adulation. In this age you must not, you dare not fall below such high standards. It is the age of progress—of improvement in every science, in every art, in every profession. He who stands still, or idly lingers on the way, will find the tide sweeping by him leaving him “high and dry,” on the shore of neglect and disappointment. It is this very progress which has founded the present institution; which has drawn to it our most emi-

inent scholars and jurists, and opened up to you and for you advantages nowhere surpassed in our country.

In former times, even the men whose names I have called up for your just emulation, enjoyed no such facilities as are now daily spread before you. In some crowded office, and under the guidance of some preceptor in full practice, and therefore obliged to be neglected—with access to fewer books than are now sometimes referred to in a single case—they groped their way through the intricate mazes of early study. But with stout hearts and noble resolves they struggled on, until in spite of every obstacle, they attained an eminence worthy of all imitation. Contrast your present condition with theirs. In a quiet and secluded village, already remarkable for the literary and moral habits of its population, with professors distinguished for their ability, and unencumbered by other engagements to distract and divert their attention, and with access to vast stores of legal knowledge, you have the means which enable you to walk forth from this institution the compeers, the proud rivals of the graduates from any other institution in America.

I take it for granted that you stand in need of no persuasion to induce you to profit by the favorable means here afforded. I suppose you to have come here for that very purpose, and not because you did not know very well where else to go, or what else to do, than to while away a session or two at the law school at Lebanon! I feel that I have before me to-day no such genteel idler, in whose soul the fires of genius and ambition have been extinguished so early in his career. The indolent lounger, with his volatile and frivolous mind, has no business with this profession. He had better turn aside at once to the lighter pursuits and employments of the day. He who undertakes to master this first and noblest of human sciences, must bring to the great work the fixed and unalterable determination to be emphatically and truly *a student of the law*. He must not count on merely skimming over it, comprehending a few only of its general principles, and acquiring some slight familiarity with its details in practice. No, he must dive into its hidden depths—penetrate deep into its secret arcanæ, and bring up the pure and sparkling water from the very bottom of the well of knowledge.

The entrance or start upon a hard and intricate study like this, is both irksome and discouraging. But the rich rewards that lie before you and beckon you onward, should rouse you up to vigorous and incessant effort. What other profession is there less intricate and difficult which can yield you an equal or larger amount of remuneration ? What one will advance you to higher stations of honor and profit ? What one can open to you a wider field of benevolence and usefulness, inscribing your name high upon the scroll of fame as one of the great benefactors of mankind ? But the start is not so difficult as it at first appears. He who gazes on the lofty mountain peering up before him, can scarcely believe that he can ever scale and pass its towering summit. But he approaches it by degrees. One lesser elevation after another is overcome, until at last he finds himself at the top, breathing its pure atmosphere, and wondering by what easy gradations he had attained it.

In the study of the law, there is generally too great a desire to *hurry through with it*, and make an advent as soon as possible into the arena of its practice. Precipitancy has often proven fatal to sensitive and ingenuous minds. A few blunders in practice, or a mortifying failure in the argument of some important case, rashly engaged in, may be followed by chagrin and disappointment which may never be overcome. No persuasion of friends, no counsel of the wise and experienced, can restore him to confidence in himself, and he abandons in mortification a profession which, with less eagerness, he might have honored and adorned. How much better for him not to have laid aside his elementary books so soon, nor to have hurried so hastily into the court in order to make a premature display in harranguing a jury. He should have remained contented in the retirement of study, "biding his time," until ripe in his full course of preparation, he could have realized his own expectations and those of his waiting and admiring friends. That full course of preparation will admit of no precipitancy with impunity. It takes too wide a range. It embraces law in its widest and most comprehensive sense. The laws of God—of nature—of nations—of independent States ; under the latter, the common law—the statute law—constitutional law—the commercial law—the law of real estate—of

descents—the criminal law. In fine, it embraces all laws, human and divine, and challenges the profound study of years to understand and expound them. Beside the subjects of direct and intense study, there are others, collateral or incidental to them, that must by no means be neglected.

The law student should make himself well acquainted with history, ancient and modern. It is there that he must learn the origin of those laws which are the daily subjects of his meditation—the occasions which called them forth, and their beneficial or injurious tendencies after their enactment. It should not be studied, however, as a mere chronology of past events. In what year some battle was fought, or at what precise period an illustrious Prince was called to the throne, can be of but little importance compared with the great principles by which he advanced his people to prosperity and happiness, or sunk them still lower in the scale of despotism. It should be read in order to trace out the rise and progress of our most important institutions—the advances of mankind at different periods of the world, in education, in the sciences, in the arts, both useful and ornamental. The study of history is eminently important to the student of law in our own country. Our form of government, and the institutions which it establishes, have been so recently founded, that no statesman, no judge, no lawyer, no man of education should be deficient in their history. He should especially be familiar with our revolutionary history; with the discussions and events that led to the first confederation of the colonies; with the debates on the formation of the Federal Constitution, and its subsequent adoption by the States; with the debates in Congress *on the leading topics* since that period. All these illustrate the true nature of our government, and can scarcely fail to inspire us with the warmest sentiments of admiration and devotion to it.

It is upon such studies as these, that we have to rely much for the arrest of that spirit of change and innovation which is one of the characteristics of the present period of our national existence. We are no enemy to real improvement in every thing: in law, in jurisprudence, and in government. But we should advance with caution, and nothing but the surest convictions should tempt us to leave the beaten track of our an-

cesters. The founders of the republic attempted to raise barriers against this fondness for change, by the adoption of constitutions so difficult of amendment and alteration, that such could seldom be effected without a general concurrence of public sentiment. How long these barriers will prove sufficient, it is impossible to tell. The close observer can distinctly see that reverence for constitutional law is fast diminishing, and every pretext for its evasion is eagerly adopted. The device of enlarging and expanding that instrument by the doctrine of *constructive powers*, has proved successful on several important occasions, and the insidious avowal, now too distinctly announced to be overlooked or disregarded, that there is a law above and higher than the Constitution, threatens to abrogate it altogether. These two doctrines, whilst they differ in the mode of getting clear of constitutional restraints, yet agree in their results. Great *liberality* of construction, it is well known, will give to it much of that elasticity which the disorganizing spirit of the age seems imperiously to demand. It would then admit of nearly every thing which a licentious and dominant majority might demand. Still, cases may arise and have arisen, where latitudinarian doctrines would prove inadequate to the purposes designed; for there are some things so plainly incorporated, such as "the protection of life, liberty and property," that no sophistry can evade them. It is then that the *higher law*—that new invention of the age, interposes, in order to complete the fatal work of constitutional evasion and desecration. Under this doctrine, if it should practically and finally prevail, the whole structure of the American government must inevitably perish. The sentiment now often and publicly invoked, that, in a free government like ours organic or constitutional laws are inconsistent with the rights of majorities, who ought to have the power to pass all laws whatever, will then supersede all constitutions. The rapid growth and dangerous progress of this latter sentiment, may be seen in the public odium now heaped upon that clause of the Constitution which erects the *veto power* as the only barrier against invasions upon the rights of the minority. So great is that odium that many demand its total obliteration from the Constitution; whilst others are content with its practical annihilation by withhold-

ing its exercise, even to prevent the most obvious violation of that sacred instrument. I advert to this alarming state of things, not in reference to the prevailing conflicts of parties, but to impress it on your minds to read thoroughly the constitutional history of your country, so that you may form a just and enlightened opinion upon them. You will find in your researches, that the school in which was taught the doctrine of *a close and rigid construction* of the Constitution, was founded in that part of the country that then swayed the sceptre. It was taught, against all the blandishments of power, exhibiting the rare example of a triumphant majority seeking to erect bulwarks around the citadel of the Constitution to protect it against their own invasions. They looked forward to the time when the republic would probably extend from ocean to ocean: when instead of thirteen, some thirty or forty States might compose it. They knew not what great and diversified interests might conflict with each other; and when the one or the other prevailed, they knew not what consuming fires of revenge and hatred might be generated in the conflict. But this they knew, that the Constitution that had been framed, if honestly confined to the powers conferred, would do as well for many, as for a few States: for States reposing on the shores of the Pacific, as well as those that stretched along the Atlantic; and that if the Constitution secured all alike in the enjoyment of life, liberty and property, no conflict of interests, no diversity of climate could retard them in the march of greatness and glory. The sceptre of power, however, has now passed over to another region. Its transfer to the North should bring no regret, if the new hands that are now to wield it will recognise the doctrine of a strict adherence to the plain letter and obvious meaning of the Constitution. But unfortunately they exhibit few signs of doing so, but promulgate with daring boldness that there should be no veto against the vote of a majority of Congress, and no Constitution when in conflict with the higher law of the consciences of those who hold abstract opinions in opposition to its provisions.

But, gentlemen, the acquisition of a thorough knowledge of the law is scarcely more important than an easy, graceful and pleasing manner of communicating it to others. You will

have spent years almost in vain, if you have neglected the art of speaking. I do not mean that mouthing faculty that can barely communicate an idea, but that noble faculty which at once arrests the attention and wins the favor of your hearers. To speak well you must think well; you must comprehend clearly the great points of your case, and concentrate the highest powers of your mind upon them. What you comprehend clearly, you will be apt to express well; and what you feel strongly yourself, you will most probably urge with power and eloquence on others. The finished orator at the bar, in the pulpit, in the senate chamber, or the lecture room, must be master of logic and rhetoric. Logic is the science, rhetoric the pleasing manner or style, and eloquence the matter of speaking. The two former are therefore auxiliary to the last, and the three combined have exalted man above all other attainments and achievements in life.

By eloquence we do not mean mere words or sentences of fine language void of solid sense; a magnificent display of gestures and apostrophes without point or meaning; but that eloquence which we recommend to your unceasing study is founded on thought, on sentiment, expressed with the terseness of logic, the grace of rhetoric, and which kindles up and then controls all the hidden fires and passions of our nature. How to acquire this highest, I had almost said this more than human art, I know not, but by reading often and studying closely the orations of its great masters. I disclaim all mere imitations of either the dead or the living. If there be eloquence in you, nature will bring it out in some form or manner that will be your own. Still, by consulting the great masters we are assisted in attaining to that standard which Cicero has laid down, "to speak to the purpose—to speak clearly and distinctly—to speak gracefully." The selection of models, not to make but to improve your style, should be left to your own peculiar taste and judgments. And why should you not have models for this purpose? The painter as well as the sculptor has his. The architect has his. Why then may not the orator go to Greece and Rome, to England and France, or to America, for models which have filled the world with admiration? Demosthenes and Cicero among the ancients were so eloquent, that they

have inspired eloquence in all who describe them. In England, Burke, Chatham, Fox, Sheridan and Lord Brougham; in Ireland, Curran, Grattan, Emmet; in the United States, Patrick Henry, John Randolph, Richard Henry Lee, William Wirt, John C. Calhoun, Daniel Webster, Felix Grundy, and Henry Clay, are all admitted models of the highest order. I speak not of the pulpit models, whose fame has justly filled the civilized world, but whose theme so little resembles yours as not to be equally useful in their study. But I must be permitted to recommend to you those models from whom the pulpit orators have drawn all their inspiration—the models of the Bible. Study these—the Prophets—the Apostles—our Saviour's great sermon on the mount. To say nothing of their moral effect, they will be found to improve, enlarge, and to exalt your forensic efforts. But remember, after all your study under the best models, the great secret of being eloquent is to feel yourself, deeply and sincerely, what you wish to impress on others. To reach the heart your language must flow from the heart. That must dissolve first, or your language will fall cold and powerless on your hearers. Hence it is that the truly great orator must preserve his moral sensibilities pure and uncontaminated. He must love truth. He must honor virtue. He must hate vice and all its deformities. He must sympathise truly and deeply with the weak and the oppressed. He must loath despotism and tyranny in every form and shape in which they have ever oppressed mankind. In short, to be great he must be eloquent, and to be eloquent he must be good. With such elements of character, he will speak as an oracle and a prophet. Like a strong man he will pull down the pillars of prejudice, and his utterance will be like the stone hurled from an engine. To the sentiments and will of such a man all hearts are surrendered in profound obedience and homage.

To cultivate an art so essential to the profession you have selected—an art so ethereal, so God-like—should challenge your highest assiduity. No difficulties should appal, no indolence retard you. Demosthenes was no orator by nature. Cicero studied long and hard under the best masters. Chatham practiced all his life before his mirror. Lord Brougham rehearsed a single oration for six weeks before he delivered it.

Whitefield, and Wesley, and many others, had to pass the same laborious pilgrimage, and richly were they rewarded by a deathless name, an immortality of honor.

Gentlemen, my work would be but half accomplished, were I to leave you with these observations on the mere study of your profession. Much, therefore, remains to be submitted to you in relation to its pursuit and practice. When you shall have acquired the requisite amount of learning, and passed that ordeal which attests it, you will enter upon the great theatre of the world to act a noble part, I hope, in the grand drama of life. It will be to you an important and critical moment in your existence. Your friends are now looking with solicitude upon you whilst engaged in the prosecution of your studies. They will watch with intense interest your advent into the world. You will have to guard in some degree against their anxiety to precipitate you into the arena in cases not suited to display, or on occasions not well calculated to enable you to realize their expectations.

Before you begin, you must select your residence, your home. In doing this, you will sometimes be controlled by circumstances, so obvious and proper, that they need not be here alluded to. But, as a general rule, I would say, strike for the capital! for some great commercial city, or some densely populated region, of wealth, intelligence and trade. In other words, go where there is something to do. Fear no obstacle. Cower to no dread of competition. If there be great lawyers already there, they will furnish you with high standards of rivalry and emulation. If they seem too numerous, remember that the demands of political life and the high honors of the bench will be constantly thinning them out. Besides these, bear it in mind that successful practice brings opulence, which is sure to be followed by that desire of ease which will make room for fresh candidates for fortune and for fame. Success in a location so selected is the more desirable, because it will become your permanent residence for life. You will not then be compelled to move from the village in which you started, because you have outgrown its business and population. It is one of the great laws of genius and ambition to seek for situations

commensurate with their conscious power of usefulness and display.

Having selected your place of residence, your next step will be to procure you an office. This will be your *sanctum sanctorum*, at least one room of it, where no genteel idler is to be admitted to while away an indolent hour, or to kill time at an innocent game of cards or back-gammon, and, least of all, to take a "gentlemanly spree" in term time or out of term time. Into that consecrated place let none enter save yourself, your books and your clients. Receive your friends cordially in some other room, and when the demands of social life are satisfied, withdraw to your place of study, with no apprehension that either the wise or the good will ever be dissatisfied with your devotion to business. The time spent at lawyers' offices, frequently, in idle and unprofitable discourse and amusement, if devoted to earnest and indefatigable research, would be sufficient to make even the dullest of our attorneys proficients in one of the noblest sciences in the world.

Your residence chosen and your office selected, you should betray no over anxiety to begin. Wait until a proper cause and occasion shall demand it. Having made your arrangements for a lifetime, and having a living consciousness within you that you possess the high elements necessary to ensure success, you can afford to wait until some case of insulted virtue or down-trodden poverty, shall demand your services.—At such a call, walk forth in the majesty of your profession, and deal the blows of a young giant upon the head of insolence and oppression. Catch the inspiration to do so from the strong sense of virtue and justice which is in your own heart, following the example of Patrick Henry and many others under similar circumstances. I repeat, catch the inspiration from your own bosom; cultivate habitually the love of virtue, of right, of justice, of all the moral and religious duties. Scorn what is ignoble and vicious—detest fraud and hypocrisy—loathe oppression and tyranny in every form and shape you may meet with them, and denounce them with words that will burn and blast them. All this will be especially necessary, if you ever become effective and eloquent advocates. There is no branch of the profession so important as what is commonly

called the criminal practice. It places the life and liberty of your fellow creatures in a good degree into your keeping. In capital cases, the responsibility is immense. The vital spark is committed to your hands, to preserve it alive or extinguish it forever. One argument omitted, it is lost—one bold, fervid, eloquent appeal, and it is saved. To make such an appeal, the advocate must feel what he says; it must come from him with a heart heaving, and a lip quivering with genuine emotion; no sickly, morbid sentimentality will serve the great occasion. He must fully realize the prisoner's sad and helpless condition. The sweetness of human life—the value of the immortal soul that may be lost and ruined by being ushered prematurely into another world, with all its sins green and blooming upon it. Thoughts and sentiments like these, caught from the Book of God, that great fountain of knowledge of what pertains to the immortality and grandeur of the human soul, may enable him to rescue his victim from the deadly grasp of his pursuers. There is no prouder triumph, no sweeter pleasure than is enjoyed by the successful advocate in capital cases. He feels that he has baffled the malice of enemies; that he has snatched his client sometimes from the very jaws of perjury; that he has overcome the unconscious prejudices of both judge and jury; that by the magic power of eloquence he has converted the infuriated cry of the multitude for his crucifixion into a long and exulting shout at his deliverance.

The natural ardor of youth will induce you to desire a large or full practice at the very beginning of your career. Such success would probably prove the grave of all high future eminence. Immersed in cases, many of them of no great importance, either as it relates to the amount involved or the compensation to be received, you would necessarily be deprived of the opportunity still farther to prosecute your studies, and to dive yet deeper into the profound mysteries of the law. More especially should not this fullness of practice be sought by undervaluing yourselves in the acceptance of fees below the usual standard of compensation. You must ever remember that you have not repaired to the precincts of the court for the mere purpose of *making money*—of *growing rich* upon the er-

rors and vices of mankind. In so ignoble an aim sheer avarice could have pointed out to you many avenues more likely to ensure your success.

To a genteel competency, even to affluence, you will be entitled; but let it be an agreeable *incident*, not the chief object of your toils and labors. The diffusion of knowledge, the elevation of the moral and intellectual standard of society, will be far more ennobling to you than the acquisition of sordid gain. It is difficult, perhaps impossible, to estimate the vast amount of useful knowledge disseminated by a good lawyer in the course of a long practice. His contributions to the judge on the bench will be felt and acknowledged by him in almost every trial. They will be seen in the profound attention of juries, and in their rendition of verdicts responsive to the intelligent and able argument he has submitted. The thousands who throng the courts from day to day, and who hang with eager attention on his speeches, return to their homes with minds improved, with sentiments of reverence and respect for the laws and institutions of their country enlarged, and with unbounded admiration for the advocate who has thus inspired them with fresh incentives to virtue and patriotism. To such a man the church looks when her altars are invaded. The State calls upon him when some great constitutional subject is to be expounded. Whatever individual in the city, the field, or the workshop, shall find his rights invaded or his liberty assailed, hastens to him for redress, and hails with confidence and joy the alacrity with which he espouses his cause. Such a man cannot remain a very long time in the practice. The flood-tide of public admiration will bear him upwards to the bench, to the senate chamber, or to be some high minister of State, enlarging the circle of his influence, and from a more commanding eminence, shedding the light of his devotion to learning, to justice and good morals farther and wider around him.

Gentlemen, we indulge the pleasing hope that each one of you is emulous of the fame of such a lawyer as we have just described. We suppose you to have overcome all the obstacles of preparatory study—that you have been fortunate in the selection of your place of residence, and that clients begin

to come freely if they do not throng about your office. Still we should be unkind and negligent of our duty on this occasion if we did not warn you that your trials and difficulties are not yet ended: a new class of difficulties, not at all resembling those we have heretofore considered. They result from the new associations which you must form on entering into the crowded temple of justice. Associations with those clients whose causes you have espoused—with the witnesses on both sides who are to testify in them—with the judge who is to preside over them—with the opposite counsel whose duty it will be to baffle you if he can at every turn, and drive you and your cause if possible, with mortification and much cost, out of court. How delicate, how various, how responsible these new relations! Were we to venture one general counsel, to be applied to this whole class thus grouped together, without entering on details, we would simply advise, that with every body—clients, witnesses, judges and adversary counsel—on all occasions, in consultation, on trial, during periods of defeat and disaster as well as of success and triumph, resolve to be the gentleman; to speak like one—to act like one—to feel like one. If native instinct does not prompt you to do so, let your high and polished education, and the proud inspirations of your profession, hold you up to the lofty elevation of the true gentleman. The true gentleman never passes a deliberate insult, and never submits to one. He exhibits no insolence to inferiors, and never allows it from either equals or superiors. He never will exult over a prostrate enemy, nor in hours of defeat and disaster, which must some time come to all practitioners, allow himself to become peevish and insulting to those whose good fortune it may have been to succeed over him.

Apply this general counsel in the first instance to your intercourse with your own clients. They have paid a most agreeable, perhaps the highest, compliment by selecting you as their advocate. Let then no clumsiness of narrative, no repetition of immaterial circumstances, no tediousness of detail in the history of their wrongs, induce you to grow impatient or uncivil. Had they the same powers of perspicuous condensation which it has cost you many years to acquire, they might not have stood in need of your services. Nor should you betray

or feel irritation when, in the pendency of a cause, your anxious and excited client shall too frequently enquire when it will be tried, or whether witnesses who have importuned him for the privilege may stay away till the morrow, or shall trouble you with the gossip of the streets about the probable result of the trial. In all such cases, the true gentleman listens with patience, answers with brevity, but kindness, and then passes on to his business; sympathizing with the anxiety of his client, who, whilst he annoys, yet honors and respects him.

There is, however, a single case which challenges from the counsel no such mildness and forbearance. When in the original consultation, or in some subsequent disclosure, the client shall avow that he *knows* that justice is not on his side, but that he is seeking an advantage which accident has laid in his way, in order to gratify some hateful passion of his nature; the pure-minded and virtuous advocate should spurn him from his presence, and withdraw from a cause rendered infamous by his own disclosures. We place upon record a case somewhat analogous to the counsel we have here given. An eminent lawyer, the late Judge Kelly, had been employed in a suit of slander, then pending in one of our courts. On the day of trial, his client met him in the street as he was passing to the court room, and remarked to him, that it was not so much to argue the main merits of his cause, that he had employed him, as it was to abuse and vilify the opposite party; "And so," replied the indignant counsel, "you mistook *me* for a blackguard, and I take *you* for a knave, and abandon you and your cause together."

Let us next apply this general, I might say this universal rule, to your examination and comments upon the testimony of witnesses. For the time being, they are, in a great degree, in your power. They are in some sort your prisoners, and therefore, upon the great law of honor, they are entitled to your forbearance, if not your protection. Wantonly to assail them, is cowardice. You have a right, and it is your duty, to subject them to the most searching enquiry—one which, by its closeness, would imply a high degree of suspicion. If, however, you detect no lurking or misleading partiality—no faint footprints of perjured knavery—having passed the ordeal of your

genius and talents, the witness is fairly entitled to your liberal and generous comments. You should cast no ungenerous sneers at him because he happens to be a witness on the opposite side. You may be wounding a sensibility as tender and delicate as your own, and inflicting a stain upon a character dear to him as life, and on a family whose head and representative he is, which no time can obliterate. If, however, the witness comes before the court under suspicious circumstances, and manifests little or no reverence for the high sanctions under which he is testifying—if he fairly subjects himself to the imputation of having given false testimony, then hold him up to the scorn and detestation of all mankind. Let no words of burning denunciation be left unuttered, which might prove a warning to others.

That you should always act the part of a polished and finished gentleman with your brethren of the profession, is so clear a duty that it need scarcely be mentioned. That you should do so with your adversary during the progress of a cause, is of the highest importance. Never take offence at what he may say or do, unless you are well satisfied that it was intended. He feels bound to exhibit much zeal in behalf of, and in some sort to identify himself with, his client. So do you; and whilst both shall do so within the bounds of professional courtesy, no offence ought to be taken by either. But it is a great law of the profession, that each attorney shall be left to fix for himself that degree of identity, and his adversary is never allowed to exceed it by attempting to attach to him any odium that may have fallen on his cause in the progress of the trial. Such an attempt, for its intrinsic injustice, would place you beyond the pale of professional honor, and ought to strike your name from the time-honored and unsullied roll, on which stand recorded the most illustrious names of ancient and of modern time.

But there is no one to whom uniform deference and respect should be so perpetually manifested as to the court. The Judge is the representative of that noble science which you venerate and honor. The ermine which adorns him should admonish you never to forget what is due to his exalted station and office. Approach him without presumptuous familiarity

on the one hand, or servile humiliation on the other. Your own self-respect would forbid the latter, whilst the former might call down upon you the most painful and mortifying repulse. In all your addresses to him be brief, lucid and to the point. Do not, with a dogged pertinacity, travel over ground which others have gone over before you; and above all, do not deluge the court with principles, and cases, and authorities which no one has been known to deny for the last half a century! Act towards him on the fair and reasonable presumption that he has at least some tolerable knowledge of the law, and, therefore, it cannot be necessary to torture him with such frequent recurrence to the mere rudiments of the profession. Pass over all these. March directly up to the strong points of the case. Seize upon them—grapple with them—illustrate them by great principles—fortify them by authorities, and thus bear your client and his cause triumphantly through the court.

And now, gentlemen, I have concluded all that my leisure allowed me to prepare, and all indeed that it seemed to me the occasion demanded. I have only to add, yonder is the Temple! Her gates are wide open to receive you. A long line of great and good men have passed in before you. The light of their footsteps will guide you to her altars. These learned professors who have instructed you so carefully, this throng of admiring friends, and above all, your own high resolves, invite you to enter in and receive, as I hope each of you may do, her highest honors and her richest rewards.

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## PART III.

MESSAGES, REPORTS, AND OTHER DOCUMENTS.

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## INAUGURAL ADDRESS

*Of Hon. A. V. Brown, delivered on the 15th October, 1845, on  
his Instulment as Governor of Tennessee.*

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*Gentlemen of the Senate  
and House of Representatives:*

In presenting myself before you on the present occasion, I feel very deeply impressed by the solemnities which we have just witnessed. The transitions of power from one dynasty to another in the old world have rarely been effected without revolution and bloodshed. There, the triumph of the one party is too often the destruction of the other, leaving the great masses of the people but little benefited by the change of dominion. In our own free and happy form of government it is wholly different. Here, the great popular principle is recognized in its full force, "that all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness." It is a remarkable fact, that this was the first great truth uttered by the illustrious men who framed the Constitution of Tennessee. It seems to have been uppermost in their minds, and to have burst forth in advance of all their noble and patriotic sentiments.

It is under the influence of this cardinal principle that we have just witnessed the surrender of all the executive power

and authority of the State by my distinguished predecessor; a surrender so peaceably and promptly made that it must constitute one of the highest eulogiums on our representative form of government. But in presenting myself before you and this large assembly, for the purpose of assuming the high office from which he has just retired, I must be permitted to express my deep and abiding gratitude to those by whom it has been bestowed. To a station so exalted and responsible I should never have aspired, but for the unanimous call of my fellow-citizens in convention assembled. Most earnestly did I desire the nomination of some other individual more able to vindicate and sustain the great principles involved in the recent election. Not that I then was or ever could be insensible to the high honor of presiding over such a noble and gallant State as Tennessee. She is the land of my youth, the home of my manhood. I have traversed her in all her borders; and I feel to-day a proud consciousness that I love her, not more for her physical grandeur, her lofty mountains, her deep majestic rivers, her wide luxuriant valleys, than for the moral excellence of her brave, and hardy, and industrious people. To preside over such a State, and to contribute any thing valuable to the prosperity of such a people, ought to kindle up the fires of a virtuous ambition in the bosom of any man living. But, gentlemen, whilst I freely admit the full influence of an emotion like this, I trust you will allow me to declare the most unfeigned distrust of my abilities to discharge the duties of the high office which I am about to assume. Fidelity and zeal in the discharge of those duties, and the most anxious and earnest desire to advance the welfare and happiness of every individual member of our beloved Commonwealth, without reference to the party to which he may belong, must be the only pledge which I can offer my countrymen for this distinguished mark of their preference and confidence.

The duties to which I allude are embraced in the comprehensive but solemn oath which you will presently cause to be administered, faithfully "to support the Constitution of this State and of the United States." In general terms, to support these, is to support all the high principles of rational liberty and representative government—the liberty of speech—the

freedom of the press—the rights of conscience, of property and reputation—the purity of our elections, and the implicit obedience of the representative to the will of his constituents. It is not, however, in relation to these great cardinal principles of government that the practical difficulty of the American statesman may be expected to arise. The oath which you are about to administer to support not only the Constitution of the State of Tennessee, but of the United States, imposes a double allegiance, challenging my most unreserved obedience to both governments. It is the danger of collision between them that constitutes the precise point of difficulty and embarrassment. In anticipation of the bare possibility of such an event, it becomes my duty to declare the principles on which I should feel bound to act—to declare them here in your presence—to declare them now, at the very beginning of my administration, and at the very moment when I contract the obligation of this double allegiance.

Rightly understood and fairly construed, I hold collisions between Federal and State Governments to be utterly impossible. The wise men who framed the former, seem to have studiously and incessantly guarded against such an event. They knew well that in the political as well as in the physical world, where equal powers meet, a fearful and dreadful pause must ensue. They therefore weighed and considered with profound anxiety every line and word inserted into our Federal Constitution. In the States to which this instrument was submitted for adoption, the most distinguished statesmen and jurists employed all their talents and learning in an animated and fearless discussion of its provisions. The result of all this care and patriotic labor, was to throw additional safeguards around the sovereignty of the States, by declaring that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

This amendment should have rendered every thing easy and harmonious in the operations of our political system. It should have established it as a maxim in the creed of every American statesman, never to claim for the Federal Government any power which was not *expressly* granted in the Constitution, or

which did not necessarily or properly belong to the execution of an express power. It was for the establishment of this great rule of construction, that Jefferson and Madison, and the Virginia Resolutions of 1798, so earnestly contended.

But unfortunately for the country, another school of politicians rose up co-eval with the Constitution, insisting on an additional class of *implied* powers, with no limitation but the wild discretion of Congress, and guided by no object but the vague and indefinite notion of "the general welfare."

It has been this difference of opinion as to the mode of construing the Federal Constitution, that has laid the foundation of all the party struggles of this country. The establishment of a United States Bank, the enactment of a Protective Tariff, without regard to revenue, the distribution of the proceeds of the sales of the public lands, the assumption of the debts of the States, the suppression of the liberty of speech, under the pretext of preserving the freedom and purity of our elections, have all depended on a *latitude*ous construction of the Federal Constitution. The present occasion will by no means allow of an extensive reference to any of these subjects; but the questions of a Bank and the Tariff enter so deeply into the political discussions of the day, that I may be pardoned for submitting a few observations on them.

In relation to the Bank, the great fact that no power for its creation is to be found in express terms in the Constitution, has often been adverted to. But another fact, scarcely less important, has been strangely neglected. That fact is, that the journals of the convention show clearly that such a power was often asked for and as often refused, in every form in which it could be presented. There is a potency in this recorded fact, second only to the silence of the Constitution, which ought to have long since overthrown all the feeble *implications* so much relied on by the advocates of such an institution. Beside this, a power so vast and mighty as this is, should never have been left to mere implication at all. It should have stood out in advance of all others, and have been rendered undoubted by its boldness and conspicuity.

It was but a poor evasion of the constitutional objection to have located the bank in the District of Columbia. If Con-

gress has the power of exclusive jurisdiction over that District, it must be *for it* as well as *in it*—local in its objects, and territorial in its action.

To seize on a power granted for such limited and special purposes, and expand it over a mighty continent, is a shameless perversion, a fraudulent usurpation—far more wicked than the boldest interpolation of that instrument could be. The pretence so often relied on, that a bank was *necessary and proper*, (and therefore constitutional,) as the fiscal agent of the government, is fully exposed by the fact that the bank never was charged with the collection or disbursement of the revenue at all. The most that could ever have been said of its fiscal agency would have been that it was charged with the simple *custody* of the funds during the brief period between their collection and disbursement. I repeat, therefore, what I have before said in another place, that this alleged fiscal necessity is a false pretence, for the experiment has now been made and the fact tested, that the government has, and can collect, keep and disburse its own revenues, without the aid of any bank whatever—an experiment which Washington adopted by signing the act of 1792, which Mr. Jefferson subsequently recommended and declared to be entirely practicable.

But I forbear any further observations on the subject of a bank. I have referred to it only for the purpose of illustrating my opinions more fully as to the mode of construing one of the constitutions which I am presently to swear that I will faithfully support. I say nothing of the expediency—nothing of its dangerous and corrupting tendencies—nothing of that full and ample refutation, which time and experience have given to the argument, that exchanges could not be regulated, nor a sound, uniform currency be given to the country, without such an institution. All these topics belong not to the occasion, nor is their discussion necessary in order to make known my opinions to my fellow-citizens of the State.

In relation to the Tariff, I have always maintained that its rates were too high, its discriminations unjust, and that it ought to be modified and greatly reduced. The agricultural States have suffered much already, and nothing but the warmly cherished hope that it will soon be repealed or greatly modified,

has subdued the murmurs of the consuming classes. I am fully aware of the arguments usually employed to prove that the people, so far from being injured, are really benefited by the high duties of the Tariff; but I know not which most to condemn—the impudence which could fabricate, or the credulity which could be imposed upon by them. Strong as this language may seem, I nevertheless entertain no hostility to the manufactures of the United States. I cherish for the valuable and important ones the very highest regard, and would cheerfully give to all any advantage incidental to the collection of our national revenue. I look forward with confidence to the next Congress of the United States to make such modifications and alterations in the present Tariff, as will make the system impartial and honest. That dissatisfaction which is now felt with its provisions in many quarters will then be suppressed, and those deep feelings of attachment which are cherished by nearly our whole population, in favor of the perpetuation of our blessed Union, will then acquire renewed energy and strength.

Passing now, gentlemen, from those subjects on which the Federal and State governments have heretofore conflicted—and which lay too directly in my way to be omitted—I desire to submit a few observations in relation to our State government in particular. The condition of our affairs at home, challenges our most anxious attention. Our legislatures have yet much work to do to enable the people to enjoy all the blessings which a wise use of our free institutions can certainly secure. The preservation of our public credit stands out amongst the foremost of all our duties. Every liability, whether prudently or imprudently contracted, should be met with most scrupulous punctuality. In individual life many apologies may be urged for the want of this virtue which can find no parallel in the public engagements of a great and prosperous State like ours. To meet these liabilities with ease and without probable inconvenience to the people, I shall, in some future communication to you, invite your attention to the establishment of a sinking fund adequate to the liquidation of our outstanding liabilities at the respective periods when they may fall due. The bank of the State has heretofore been much relied on, by

the profitable operations of its concerns to meet these liabilities. However this may be, it cannot be amiss, in my opinion, to bring to its aid all the other means, short of additional taxation, which the State may have at its disposal. Amongst these, none can be more commendable than the most rigid economy in the administration of the government of the State.

Economy in your own expenditures—in the length or duration of your session—in the execution of the necessary public printing—and, in fact, in all the subjects of expenditures which are immediately connected with your legislative deliberations. Economy also in the executive and judicial departments, carried to the utmost extent compatible with the administration of justice and a faithful execution of the laws of the land. It will be a part of my duty under the Constitution, "to take care that the laws be faithfully executed," and I can assure you that no portion of my duty will be more agreeable than that which shall be performed in sustaining the public credit unimpaired at home and abroad, and in carrying out any system of enlightened and just economy which your wisdom may advise.

For many years the true friends of our liberal institutions have earnestly desired the establishment in our State of a wise and efficient system of public instruction. As friends to religion and pure morals, they cannot repress the hope that the day is not far distant when every individual within our borders shall be capable of reading and understanding the Holy Scriptures, of transacting his own business, and, if necessary, of instructing his own offspring in the rudiments of learning. I rejoice that a salutary feeling like this now seems to pervade our whole population, reaching every hamlet within the limits of our fertile and extensive territory. The patient and meritorious schoolmaster must now go abroad through the land on his errand of labor and love, dissipating the darkness in which so many minds are enveloped. It is on the education of the great mass of the people that our hopes of preserving and perpetuating our liberties must be founded. The knowledge to understand is as essential as the spirit to defend our republican institutions. With a continual and rapid increase of our numbers, what else can be expected but anarchy and misrule, unless we provide that science and literature shall maintain

their ascendancy over all the sons and daughters of freedom, who are through future time to control the destinies of the republic! In the enlargement and improvement of our present partial system of education, I here offer freely, and with all my heart, my humble and unceasing co-operation.

The present seems to be a suitable occasion to offer you my congratulations on the recent annexation of the republic of Texas to the United States. It has been accomplished by no invasion on the rights of Mexico, and in a manner which can give no just cause of offence to any other nation. It has been effected not by the sword, but a simple covenant or contract between coterminous nations, speaking the same language, accustomed to the same political institutions, and whose common object was more effectually to secure to themselves all the blessings of civil and religious liberty. It ought to be regarded by the friends of freedom every-where but as another triumph of rational liberty and representative government over the degrading despoticisms of the old world.

All the forebodings of evil to our country, as likely to occur from the consummation of the deed, have been signally disappointed. As yet we can discover no sign of the displeasure of Heaven in consequence of it. The earth is still putting forth its verdure, and blessing the husbandman with the rich abundance of its fruits, whilst peace, and health, and general prosperity are everywhere smiling upon a great and prosperous people. Our bright and glorious Union, too, whose shattered and broken fragments were everywhere to have met the eye of the heart-stricken patriot, still bespans the continent, stretching, like the rainbow of hope and of promise, from the great inland seas of the North to the Gulf of Mexico in the South. The incredible prophesy, that a convention was to be held in this beautiful city, in order to accomplish the work of national destruction, has failed of its fulfillment, and the illustrious citizen who was to have presided over the guilty assembly has gone down to the grave with his last prayer trembling on his lips for the Union and his country.

With the acquisition of Texas and the successful maintenance of our title to Oregon, the United States will present a spectacle of territorial grandeur and magnificence unequalled

in the world. In those who have charge of our negotiations in relation to the latter country, I have unbounded confidence; and I believe they would not retain more of it, if they could, than we are fairly entitled to. I am equally certain they will never surrender one square acre of it to the unjust demand of any nation on the earth. Far distant as it may now seem to be, every revolving year will increase its importance to the hundred millions of freemen, who, at no distant day, will inhabit our continent. In the order of Providence, America may become the last asylum of liberty to the human family. Here then let us rear her loftiest temple. Let us lay its foundations deep and wide for the millions who in after ages may worship at her altars.

I turn now from the contemplation of our wonderful and increasing magnificence, in order to remind you of a great and sad calamity which has befallen our common country since you were last assembled on an occasion like this. But a few months have passed away since you in particular, and the people of the United States generally, were called upon to mourn the departure from our midst of our most illustrious citizen.—The immortal spirit of Andrew Jackson, the patriot, the soldier and the statesman, has passed from time to eternity—devoted, until he breathed his last breath, to the best interests of his country, which he had defended with heroic fortitude and courage, and served with a zeal more fervid with increasing years, he finished the great work which a wise Providence had chosen him to perform, and accomplished his destiny. Clinging to the faith and the hope which sustain the Christian whilst he is “passing through the dark valley of the shadow of death,” he died at peace with the world, leaving behind him a bright and enduring example, worthy the imitation of future generations. Hereafter, the song of the poet will be heard in praise of his memory—the pen of the historian will chronicle the deeds which he achieved, whilst the painter and the engraver will transmit his image to admiring millions.

Let Tennessee, his own adopted State—Tennessee, whose armies he has so often covered with glory—Tennessee, whom he honored, and loved, and served so long and so faithfully—Tennessee, beneath whose green and hallowed sod his mortal

remains have been deposited—let Tennessee rear him a monument lasting as time—let it be planted in or near one of her most beautiful cities, on the bank of the noblest river in the world, where the millions who will pass for ages and ages to come, may pause and gaze upon it with wonder and admiration.

## MESSAGE

*Of Gov. Aaron V. Brown, Delivered to the General Assembly  
Nov. 7th, 1845.*

*Gentlemen of the Senate  
and House of Representatives:*

In the 11th section of the 3rd article of the Constitution, it is made the duty of the Executive, from time to time, "to give the General Assembly information of the state of the government and recommend to their consideration such measures as he shall judge expedient." The performance of the duty by my predecessor at the commencement of your present session, seems not, in the former practice of the State, to ~~supersede~~ the necessity of a similar communication from me. Whilst it was the evident policy of those who engrafted this provision into the Constitution to establish the utmost freedom in the interchange of opinion, it wisely left the legislature at full liberty finally to adopt or reject the recommendations of the Executive.

This fact greatly diminishes the responsibility of the present communication, made at a period so early in my administration, as to furnish ample apology for any errors which it may be found to contain. It has often been found in the history of all popular governments, that every party succeeding to power is too anxious to signalize its triumph by some bold and novel policy calculated to attract attention, but not always to advance the permanent interests and welfare of the people. Human government, whether of families or communities,

should, however, in my opinion, be in few things more distinguished than in its uniformity and stability. It is not within the competency of government to effect such great and sudden, and at the same time, salutary improvements in the condition of the people, as many vainly imagine. These are the products of time and experience, aided by all the lights which the history of our race can shed upon the science of jurisprudence. Guided by these lights in the legislation of our own beloved commonwealth, I would especially recommend to you to pass no laws in the rash spirit of adventure, and to overturn no settled policy of the State but on full and mature conviction of its propriety.

One of the subjects of settled policy in the State I consider to be, the almost entire abolition of the punishment of death. It is one which I have long advocated under the most solemn convictions of its propriety, and should witness, with infinite pain, any attempt to recede from the enlightened humanity of the age. The gradual amelioration of the criminal code of Tennessee, effected as it has been, through slow degrees for many years, has added another proof to those drawn from other countries in favor of the abolition of capital punishment. Instead of weakening it has evidently increased the actual strength of the government, by drawing around it the rational approbation of society, and by the explosion of those ancient barbarities, which are now justly regarded with the deepest abhorrence. Nor has this relaxation tended in the slightest degree to the increase of crimes. The long continued confinements of the prison house and the degradation of becoming the humble vassals of the turnkey that nightly locks them in their solitary cell, has done more in deterring from the commission of crimes than the fear of death, which men always behold in distant obscurity. In all cases authorized by law and justified by their circumstances, I shall, with the greatest pleasure, commute the punishment from death to imprisonment for life in the penitentiary. Closely connected with this subject is the condition and management of our State prison. Of these, it is probable you are already informed by the report of those having charge of the institution, if not by the personal inspection of one of your committee. I have heard much complaint

of the unusual mortality of its unfortunate inmates, within the last year or two. If this be owing to its location or the too crowded condition of its convicts, I know well with what readiness you will apply every corrective in your power. The idea is a most revolting one, of holding our State prisoners in confinement under circumstances fatal to their lives. Even as to those whose punishment is inflicted for the highest offences, it would be but the mockery of humanity to have saved them from the speedy execution of the halter, only to subject them to the more tedious but fatal visitation of the fever. If the remedy for this unusual mortality is to be sought for in the enlargement of the present institution, so as to obviate the effects of its too crowded population, I respectfully submit, whether it would not be better to lay the foundation for the establishment of a new institution of the kind in the Eastern portion of the State. When that was done, the two institutions could occassionally relieve each other of any superabundance ; keeping each with only such a number as would be consistent with the preservation of health, and the profitable employment of their labor. Such an institution suitably located in East Tennessee, it is believed, could furnish employment for its convicts in iron, marble, &c., which would not bring its products so much in competition with the ordinary mechanical labor of the country as the present one is understood to do. It is confidently asserted by many, that a small appropriation for the building of the walls and erecting some of the cells, for immediate use, would be all that is necessary. After that, by a transfer of a reasonable portion of the present convicts to that point, with the aid of newly arriving accessions to their number, the whole internal structure of the establishment could be completed without much further expense on the part of the State. All these suggestions, will, however, have to be postponed to the now almost universally received opinion that the labor of all the convicts, and the available means of the present institution, will have to be applied for some years to come to the erection of the State Capitol. To the valuable report lately made to the commissioners appointed to superintend the erection of that building, by the Secretary of State, I beg leave to refer you, for much useful information,

which it would have been difficult otherwise to have procured.

The erection of the State Capitol, I am happy to learn, is in fine progress, under the superintendence of an accomplished architect, whose correct taste and sound judgment was singularly displayed in the plan which he furnished. It is on a large and commodious scale, well worthy, not only for the present, but future population of a great and noble State like Tennessee. Whether it was not on a scale *too* magnificent for the present resources of the State, is now, perhaps, too late to enquire. It has been adopted by the board of commissioners appointed at the last session, approved of by my predecessor, and is now in the course of due execution. Beside the aid which can be derived from the labor and means of the penitentiary, I recommend such additional appropriation, for the purchase of materials, &c., as will keep the work in reasonable progress, without, however, producing any serious embarrassment to the Treasury. It is certainly better to take more time for its completion, than to involve the State in taxation by a too liberal application of its funds.

I most earnestly recommend to your favorable regard the Lunatic Asylum, and the institutions established by law for the benefit of the blind and the deaf and dumb. All these were established for the most benevolent and charitable purposes, and appeal directly to the noblest sympathies of the heart for their advancement and promotion. Man, endowed with reason, stands forth the proudest and noblest work of God's creation, but deprived of that faculty, he sinks down into utter helplessness, the pitiable object of commiseration and charity. To provide for the recovery of many and the safety and comfort of all who are so fatally and deeply afflicted, becomes the first duty of every Christian community. Nearly in the same condition are all those, who, though possessing this noblest faculty of our species, are yet deprived of some of those great avenues of instruction which so essentially contribute to adorn and perfect it. I have several times lately enjoyed the pleasure of being present at the exercises of one of these institutions, (for the blind,) when I found myself unable to decide whether most to admire the wonderful proficiency of the pupils, the skill and perseverance of the preceptor, or the zeal and enlight-

ened liberality of many distinguished persons of both sexes in advancing the best interests of the establishment.

On a recent occasion I seized on the opportunity to advert to the now almost universal sentiment in the State in favor of the establishment of an enlightened and liberal system of public instruction. Not such a one as will pander to the light and dazzling literature of the age, but such as will impart usefulness and solid value to our industrious and hardy people. There can be no necessity for here remarking on the value and importance of such a system if it can be established. We have one already too partial in its operation, and too deficient in its organization, because too contracted in its means to accomplish the above objects. How shall these means be enlarged so as to meet the sanguine expectations and desires of the public mind? The Executive communication of the present session informs us that "there are more than two hundred and fifty thousand children in the State between the ages of six and twenty-one years, whilst there are only one hundred thousand dollars to be appropriated to common schools." This gives us only forty cents per annum for the education of each child of the State within those ages. If you strike off fifty thousand of this number, for those who would not take its benefits, even if the system were established, it would then leave you only fifty cents per head, per annum. The suggestion has often been made that to supply this palpable deficiency of funds, the distribution of the proceeds of the sales of the public lands of the United States should take place. Estimating these proceeds at two millions per annum, and that Tennessee would be entitled to one-twentieth part of the same, one-half of which could, under the Constitution, be appropriated to education, it would only give us fifty thousand dollars per annum, or twenty-five cents to each child to be educated: making in all, with both funds combined, the sum of seventy-five cents for each one per annum. Now it must be evident that this sum is totally insufficient for the purpose of establishing a general and comprehensive common school system in the State, and I am free to acknowledge that I know of no means of materially increasing it at the present time, but by taxation on the people. Public sentiment, I believe, has never yet been pronounced on

this aspect of the case. All the popular demonstrations in favor of common schools have been made on the supposition that the funds requisite for their establishment were to be derived from some other source, and not by taxation on themselves. Under this decided conviction, I cannot recommend the increase of our present fund by a further resort to taxation, but must leave the subject, with such additional remarks upon it, as you will find in another part of this message. The plans and suggestions there made, if they postponed the further enlargement of our present system at this time, may (although at a period more distant than could be desired,) ultimately furnish a fund adequate in a good degree to the wants of the country.

In relation to our system of internal improvements, I do not know that it is necessary for me to trouble you with many observations. The able report of the chairman of the committee appointed to settle with the different turnpike companies, is already before you, and contains much which should attract your attention, and to commend the zeal, industry and ability of that committee. Beneficial as the present improvements have been, there are others which claim an equal, if not a greater degree of public favor and patronage. To say nothing of the improvement of the navigation of several of our rivers, by means of what are generally termed locks and dams, the extension of the South Carolina and Georgia railroad from Chattanooga to Nashville is every day attracting more and more of public attention. However important I consider the latter project, I can by no means recommend the issue of any further State bonds or securities for its execution. To the granting of liberal and wisely guarded charters to individual companies, I think there can be no good objection. It is highly probable that the stocks would be taken by individuals, and thereby several of our most important streams would be greatly benefited, and the road under consideration be extended to Nashville, passing through a considerable portion of the State, and bringing with it almost incalculable advantages to the country. A connection between the south and the west can no where be more easily and beneficially effected. The project of connecting them by a road passing through the north-

ern portions of Alabama and Mississippi, by no means super-sedes the propriety of the proposed road from Chattanooga, or near there, to Nashville. I should regret much to witness, in the slightest degree, a spirit of rivalship between the two projects. Both are important in the highest degree, and both are fairly within the range and compass of execution, by individual capital and enterprise. The distance between Charleston and Nashville is about 560 miles. The greater part of the road is now completed, and it will be but a very short time before the cars will be regularly passing from Chattanooga to the first named city. From Chattanooga to Nashville is about 130 miles, over a surface remarkably favorable to the making of such a road. The practicability of its construction, at a cost of about two millions of dollars, is now almost universally conceded. A very large portion of the labor of construction could be performed by farmers and other persons on the route, who possess no mechanical skill, thereby greatly diminishing the actual outlay of money in its completion. The increased value of property at the two termini of the road in our State, and for many miles on either side of it, would be very considerable, whilst the increase of agricultural productions, suitable for southern consumption, would be almost incalculable.

The occasion will not allow of even the briefest enumeration of the advantages of the proposed road to the people of the eastern and middle portions of the State, nor of the considerations rendering it highly probable that it would be a profitable investment of capital to the stockholders. I must content myself, therefore, with an earnest recommendation that a most liberal and judicious charter be granted to individuals for its construction.

In the discharge of the duties imposed upon me, the necessity of recommending such measures as will secure the public credit, and at the same time avoid the imposition of heavy burdens on the people, has pressed with peculiar force upon my mind. I am gratified to know that in reference to the importance of making ample and certain provisions to meet all our liabilities as a State, there is but one sentiment amongst our constituents. They do not stop to enquire into the wisdom of the original measures out of which their indebtedness has

grown, but knowing the existence of the obligation, they expect their representatives to devise the most effectual and the least oppressive means in their power to maintain, unimpaired, the high credit which their State has ever enjoyed. With an anxious desire that their reasonable expectations on this subject may not be disappointed, I will proceed to lay before you the result of my deliberations.

The entire indebtedness of the State may be stated at about three millions of dollars—the interest required annually to be paid upon it is about two hundred thousand dollars. To devise the ways and means of paying this debt as it shall fall due, and its interest as it accrues annually, presents the important problems which we are now called on to solve. Of this indebtedness, the bonds of the State, to the amount of \$500,000, issued to raise the means of paying for stock to that amount in the Union Bank, constitutes a part. As the State still owns this stock, considerably increased by the re-investment of our surplus profits therein, and as the Union Bank has heretofore paid punctually the interest on these bonds, I shall confine my attention to the remainder of the debt, which is made up as follows :

Bonds issued for capital of Bank of Tennessee,	\$1,000,000
Internal Improvement Bonds at 5½ per cent.,	263,160
Internal Improvement Bonds at 5 per cent.,	1,579,500

Total \$2,842,666

The amount of indebtedness for which it is incumbent on the Legislature to make provision is \$2,842,666, bearing an annual interest of \$152,790. This debt will become due at different periods, covering a space of thirty years, before the whole become payable. To meet these liabilities as they shall respectively be payable, no adequate provision has yet been made by law. In my judgment, a proper regard for the credit of the State requires at your hands Legislative action on the subject. It is ascertained that a Sinking Fund of \$35,000 annually applied can be so managed as to be amply sufficient to meet our whole indebtedness as it becomes due. This estimate, however, is made upon the supposition that the Bank

of Tennessee will continue to be relied on as the means of providing for the payment of the accruing interests on the debt. It becomes necessary, therefore, that I should call your attention to the present condition and the probable future operations of this institution, together with such suggestions in reference to its re-organization as will make it more available.

By reference to the late Report of the President and Directors of the Bank of Tennessee the capital of the institution is found to be \$3,200,598. It is made up as follows:

State Bonds for Bank Capital,	\$1,000,000
School Fund,	847,389
Surplus Revenue,	1,353,209
 Total	 \$3,200,598

From the same report it is ascertained that during the last two years the net profits of the Bank have been annually \$168,305. By the laws now in force, the Bank is required to distribute annually to Common Schools and Academies \$118,000 this amount added to the interest on the Internal Improvement bonds and the bonds issued to raise capital for the Bank, making, as before stated, \$152,790, constitutes the burdens imposed on the institution. By the existing laws the Bank is expected and required to pay out of her annual profits the sum of \$270,709, when it is now demonstrated that her annual profits amount to only \$168,305. I trust that this important fact will not fail to impress itself forcibly on the minds of the members of the General Assembly. The necessity for prompt and efficient action to avoid the consequences threatened by this State of things cannot be overlooked or disregarded by the patriotic representatives of the people.

In looking for the causes which have lead to this state of things, the fact cannot escape observation, that whilst the Bank has made within the last two years, less than six per cent. nett profits on its capital, the amount required to be distributed to Common Schools and Academies is about fourteen per cent. on the amount of the School Fund in the Bank. The Bank has the use of \$847,389 belonging to the School Fund, and by its use makes a clear profit of about \$50,000—

yet by law she is compelled annually to distribute for purposes of education \$118,000. If the law were so amended as to require the institution to distribute annually the amount of profits actually made by the use of the School Fund, the annual deficit of the Bank hereafter would be about \$34,000 instead of about \$100,000 under existing laws.

I am aware that there is a strong aversion in the minds of some to any interference with the distribution now provided for purposes of education. This aversion is felt more sensibly by none than by myself, and if I saw any possible escape from it without a resort to a heavy increase of the public taxes, I should allow my feelings to control and dissuade me from the recommendation. But it has become a question no longer debatable that we cannot continue to make an annual distribution of \$118,000 to schools and academies upon any scheme of managing our financial affairs which has yet been suggested. If it be determined that the bank shall be put into liquidation by vesting the school fund in State bonds, the amount for annual distribution cannot then exceed \$50,000. The question resolves itself into this: if the distribution to schools and academies is continued at the present sum the Bank must unavoidably become crippled, its capital consumed, the School Fund itself, in all probability, be greatly diminished, and the credit of the State entirely ruined. If the bank is wound up, the school fund will be invested in State bonds bearing five per cent. interest and will therefore only yield about \$50,000 annually. But if the actual profits made by the bank on the school fund are distributed, so much of the burden will be lifted from that institution, that the way will be open for its prosperous continuance. As reluctant as I am to make any recommendation which would seem to conflict with the prospect of an extension of our common school system, I feel coerced under the weight of the consideration to which I have alluded, to invite to these suggestions your careful and favorable consideration.

It will be observed that if the suggestions already made should meet your approbation, the profits of the bank, as at present organized, will fall short by the sum of \$35,000 in meeting the liabilities imposed upon it. It becomes important, then,

to inquire whether the institution can be so re-organized as to increase its profits to an extent to cover this deficiency. After mature reflection, I am fully satisfied that an increase of profits amounting to \$35,000 annully, or more, can be secured by such alterations in the number and locations of the branches, and such a change in its system of doing business as will enable its directors to conduct it upon legitimate banking principles. When the bank was created, our leading object was to afford relief to an embarrassed people by furnishing loans on accommodation paper. That object was attained, and at the present the great purpose in continuing the bank is to make profits to pay the interest on our debt and avoid a resort to burdensome taxation. Reason and experience combined, prove that the business of banking cannot be conducted safely or profitably upon the principle of dealing mainly in accommodation notes, renewable upon small calls. If the question of creating the bank were now to be settled, the popular voice would at once reject the proposition ; but in the present attitude of the question I am constrained to express the opinion that the wisest course that can be devised would be to give to the directory of the principal bank the power to take steps for the gradual discontinuance of all such branches as are found to be unprofitable, and to transfer their capital to some three or four points where commercial advantages hold out certain prospects of affording better profits. This recommendation I am aware, may encounter strenuous opposition, but under the solemn obligations imposed upon me, and under the most thorough convictions as to the necessity of the course indicated, I cannot withhold the expression of a strong hope that I shall have your final co-operation in the suggestions. If the course indicated shall be adopted by you, I have every reason to believe that the increased profits of the bank would enable it in a very short time to increase the annual distribution to the cause of education, and give assurance that the common school system could be permanently maintained.

In the suggestions which I have already made, it has been my object to devise the means of securing the payment of the interest on our State debt without any resort to the treasury. If upon investigation of the operation of the revenue laws, as

they now stand, it shall be found that any considerable aid can be derived from that source, it will enable you to increase by so much the annual distribution to schools beyond the actual profits made on the school fund. If it shall be found that by a system of rigid but just economy in the public expenditures, and by the use of any surplus in the treasury derivable from taxes, you can not only distribute to the school the profits on the school fund, but also the profits on one half of the surplus revenue on deposit with the State, every thing demanded at your hands by the strictest principles of justice and equity in behalf of education will have been achieved. But my convictions are so strong that I cannot refrain from again remarking that no resort to the treasury for aid can weaken the force of the high considerations which demand a re-organization of the Bank according to the principles I have suggested.

When you shall have made ample provision for the payment of the interest on the State debt, your duties will be but imperfectly discharged until you also provide a sinking fund for the liquidation of the debt itself. I have already remarked that a sinking fund of \$35,000 can be so managed as to pay off our entire debt by the time it becomes due. I am gratified to learn that through the valuable and efficient labors of the commissioners appointed by the last legislature to settle with the Internal Improvement Companies, the means have been made available, with a small annual appropriation from the Treasury, to effect this most desirable object. If provision shall be made setting apart the dividends derivable from our road stocks, together with an amount from the treasury, making a permanent annual fund of \$35,000, and it be made the duty of the President of the Bank or some other officer to vest the same annually in State Bonds, and if to this sum be added each year any surplus profits of the bank, after paying its liabilities, it will be found that when our State debt falls due, it would have been liquidated and our bonds cancelled without any further resort to taxation. Our whole interest in internal improvement companies, amounting to over one million seven hundred thousand dollars, together with the surplus revenue on deposit, amounting to over \$1,353,000, can be

added to the school fund, making in all a school fund nearly four millions of dollars. In view of a result so ardently desired by every patriotic citizen, I cannot too strongly urge upon your consideration the adoption of all necessary means for its effectuation.

AARON V. BROWN.

EXECUTIVE OFFICE, Nov. 7, 1845.

## PROCLAMATION

*Of Gov. Brown, raising the three first Regiments of Tennessee  
Volunteers for the Mexican War, May, 1846.*

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WHEREAS, I have received the following communication from the Department of War at Washington:

WAR DEPARTMENT, {  
WASHINGTON, May 16, 1846. }

SIR: I have the honor to enclose a copy of an act of Congress, entitled "An act providing for the prosecution of the existing war between the United States and the republic of Mexico," which authorizes the President to accept the services of volunteers.

It will be perceived that all the officers, with volunteers, taken into the service of the United States under this act, are to be appointed and commissioned, or such as have been appointed and commissioned in accordance with the laws of the States from whence they are taken, and that the volunteers received into the service of the United States, are to have the organization of the army of the United States. For this exact organization, so far as relates to companies and regiments, please see the memorandum appended to the law herewith, to both of which particular attention is requested; but, under the discretion allowed him, the President has decided that the number of *privates* in all volunteer companies shall be limited to eighty.

On the part of the President, I have to request your Excellency to cause to be organized, at the earliest practicable period, the following corps of volunteers:

One regiment of cavalry, or mounted men, and two regiments of infantry, or riflemen.

Your Excellency is requested to designate, and to communicate promptly to this Department, some convenient place of rendezvous for moving towards Mexico, for the several companies, as fast as they shall be organized, where they will be further organized into regiments.

The several corps will be inspected and mustered into the service of the United States, as far as practicable, by an officer or officers of the United States Army. When this cannot be done, you are requested to designate the inspecting and mustering officer, who will in every case be instructed to receive no man under the rank of commissioned officers, who is in years apparently over forty-five or under eighteen, or who is not in physical strength and vigor; nor the horse of any volunteer not apparently sound and effective, with the necessary horse equipments or furniture.

It is respectfully suggested that public notice of these requirements of law, may prevent much disappointment to the zealous and patriotic citizens of your State, multitudes of whom the President cannot doubt will be eager to volunteer.

Should there be any difficulty or considerable delay in obtaining the amount and description of the force proposed to be received from your State, you will give the earliest notice of these to this Department, that proper steps may be taken to receive them from other sections of the country. Memphis is suggested as the place of rendezvous for the mounted regiment, and Nashville for the regiments of infantry or rifle.

Very respectfully, your ob't serv't,

W. L. MARCY, Sec'y of War.

His Ex'cy A. V. Brown, Gov. of Tenn.

In compliance with the communication aforesaid, I have caused the requisition therein made to be apportioned amongst the military divisions of this State in the following manner:

To the first division, (East Tennessee,) seven companies, four of which to be infantry or riflemen, and three to be cavalry or mounted men.

To the second division, eight companies, six of infantry or riflemen, and two of cavalry or mounted men.

To the third division, nine companies, six of infantry or riflemen, and three of cavalry or mounted men.

To the fourth division, (Western District,) six companies, four of infantry or riflemen, and two of cavalry or mounted men.

An infantry company, according to the directions of the Secretary of War, accompanying said requisition, will consist of one captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, two musicians, and NOT MORE than eighty privates—the minimum is not mentioned by him, but I will add, NOT LESS than sixty-four rank and file. A company of cavalry or mounted men will consist of one captain, one first lieutenant, one second lieutenant, four sergeants, four corpo-

rals, two buglers, one farrier and blacksmith, and not more than eighty privates, and not less than sixty-four rank and file.

The Major Generals commanding said Divisions are hereby required to furnish the quota of volunteer companies above specified, and according to the organization aforesaid.

In raising said volunteer companies, the Major Generals will duly observe the 44th section of the militia laws of this State, passed in the year 1840, which is in the following words, viz: "Be it enacted, that each volunteer company which shall receive the arms of the State, shall be held in readiness and subject to the FIRST call for service of the State or of the United States."

Under this act all volunteer companies which have received the arms of the State since the passage of said act, and which have not returned the same to the State, and continued their existence until the receipt of the requisition aforesaid, viz: the 22d day of May, 1846, will, on application, be entitled to priority. Next to these, all old companies which have been revived, and new ones which have been formed since the date of order No. 1, issued by R. B. Turner, Adjutant General of the State, viz: since the 13th instant, and up to the date of this proclamation, and which have been reported to me or to the Adjutant General, (including all cases in which reports may have been started by mail or private conveyance, whether the same have yet come to hand or not,) shall be entitled to priority over companies formed since the date of this proclamation.

If a greater number of companies formed between the periods aforesaid shall tender themselves to any of the Major Generals, than will fill up the requisition on their divisions, it shall be the duty of such Major General forthwith to determine fairly by ballot, which shall be received, (holding separate ballottings for infantry and cavalry,) and notify such companies, as soon as possible, in their respective neighborhoods; and said companies, on learning such acceptance, shall take up their march in time to reach the place of rendezvous as hereinafter stated. And where a sufficient number of the two last described class of companies shall not be presented, any vol-

unteer company, formed since the date of this proclamation aforesaid, viz: the 24th instant, may be received, unless so many of such companies shall apply as shall make it necessary to resort to a ballot, in order to determine between them.

In no case is it expected that any volunteer company shall leave its neighborhood until it shall have received notice of its acceptance or successful ballot, and thereupon it will be expected to repair to the place of rendezvous hereafter mentioned.

All volunteer companies in the first division, (East Tennessee,) will report themselves as soon as possible after seeing this proclamation, to Major General Brazelton, at Knoxville, who is hereby requested to make that place his head quarters, for the purpose of giving greater dispatch to the service. When he shall have waited ten days from the receipt of this proclamation for volunteer companies to tender their services, he shall make his acceptance, or determine by ballot, (when too many companies are presented,) and notify by express, when necessary, the companies accepted, and order the cavalry companies to repair forthwith to the general rendezvous at Memphis. All infantry companies to be ordered by the most approved route to the same place, unless he shall find it practicable and expedient to cause them to be transported on the Tennessee river from any point thereof to Memphis as aforesaid; and he is hereby directed and authorized to make all suitable and reasonable contracts for such mode of transportation, and to appoint an agent to act as Quarter Master and Commissary for the purchase of supplies, and to draw on any disbursing officer of the United States sent to this State, or on the Executive Department of this State. If, after the expiration of fifteen days from the receipt of this proclamation, he shall not be able to furnish the number of companies required from his division, he will report the deficiency to the Executive, that the same may be received from some other division of the State.

Volunteer companies from the second division, will make return and report forthwith after this date to Major General Campbell, who is requested to make his head quarters at Nashville, for the greater convenience of the companies of his di-

vision, who will accept their services in the manner and on the principles specified in a former part of this proclamation.

Those of the third division, will report to Major General Bradley, at Franklin, who will likewise give due attention to this order in the manner pointed out. All letters announcing the existence and formation of companies tendering their services, in the event of a requisition, which have been received by me, or the Adjutant General of the State, will be handed over to the Major General of the proper division, in order to enable him to give to the companies, in whose behalf they were written, the full benefit of their patriotism and zeal.

Volunteer companies from the fourth division, (Western District,) will report themselves to Major General Hays, at Jackson, who will accept of their services by the rules and on the principles herein stated, and notify by express, when necessary, such companies; and on receiving such notice, all the companies (infantry and cavalry) will march to Memphis, the place of their rendezvous and further organization, on the 15th June. Any deficiency which may occur in raising the required number of companies from his division, the Major General will report to the Executive, that the same may be received from some other portion of the State.

The seven infantry companies from the second and third divisions, (Middle Tennessee,) will be expected to be at Nashville by the 8th of June, where suitable and proper arrangements will be made for their transportation to Memphis, the place of general rendezvous, on the 15th of June, where the whole force will be further organized into regiments as prescribed by the laws of the State. The cavalry companies, from every part of the State, will proceed by land to Memphis.

Gen. Levin H. Coe, Inspector General of the State, is hereby instructed, unless superseded in that duty by some officer charged with the same by the United States, to select a suitable encampment in or near Memphis, and cause an adequate supply of rations and supplies to be engaged for the subsistence of said troops whilst at that place, and employ suitable assistants for that purpose.

Volunteer companies, after they have been accepted by the Major Generals, will be at liberty to arm themselves with

"Hall's rifles," or muskets, or other arms, at the depots in the several divisions of the State, either in whole or in part, so as to go to the field with arms in as good condition as possible, and the keepers of the public arms are hereby directed to deliver such arms to the Captain of any ACCEPTED COMPANY, taking his receipt for the same.

All companies from the second and third divisions will be mustered into the service of the United States at Nashville, and all others at Memphis.

The East Tennessee troops will arrive at Memphis as soon after the said 15th of June as practicable.

The Executive has witnessed, with the proudest satisfaction, the zeal and alacrity with which the citizens of Tennessee have rallied to the standard of the country. He has endeavored to give all parts of the State an equal chance to engage in the service, and has gone into all the above details, in order to save time and to give the utmost possible expedition to the departure of the troops.

 In testimony whereof, I have hereunto set my hand, and caused the great seal of the State to be affixed, on this the 24th day of May, 1846.

AARON V. BROWN.

By the Governor,  
Jno. S. Young, Sec'y of State.

## ADDRESS

*Of Gov. Brown, transferring the third Regiment of Volunteers  
to the United States.*

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EXECUTIVE DEPARTMENT, }  
NASHVILLE, June 3, 1846. }

To COL. WM. B. CAMPBELL:

SIR: The first regiment of the Tennessee Infantry Volunteers, which you have the honor to command, being now fully organized and mustered into the service of the United States, in pursuance of a requisition made on me by the Secretary of War, dated 16th May, 1846, you will proceed with it, by means of the steamboats chartered for that purpose, to the city of New Orleans as speedily as practicable, and report yourself to Major General Edmund Pendleton Gaines, for further orders.

In surrendering the State authority, and passing you over, during the term of your service, to that of the United States, I cannot permit the opportunity thereby afforded to pass by, without submitting a few observations to you and the brave and gallant men under your command. You have been called on at a moment of great emergency to engage in the service of the country. The requisition on me arrived by one mail; mine on you was sent forth by the next. In the short space of one week you nobly responded to my call, and are now here from the different portions of a widely extended country with a promptitude and alacrity which has never been surpassed in the volunteer service of the country. It would have been impossible to have given greater celerity to the movement, with-

out having taken the requisition from a few of our principal towns and nearest counties of the State, without giving the balance of it any opportunity to participate in the glorious privilege of defending the country. This I could not consent to do; and in order to give all parts of the State over which I preside an equal opportunity, I caused the requisition to be apportioned among the different military divisions established by law. But such has been the patriotic ardor of my countrymen, that at least five times as many companies offered themselves as it would take to fill up the requisition. I could not take *all*, for reasons hereafter mentioned, and I therefore directed the four Major Generals of the State to select, according to the rules laid down, the companies to be received from their respective divisions. It would have been impossible for me to have made the selection with propriety amongst companies formed all over the State, with which the Major Generals may well be presumed to have much better acquaintance than any body else. I directed them to receive the old armed companies under the fortieth section of the militia laws of the State, and wherever there was a conflict between other companies described, *to decide the same fairly by ballot*. I know of no mode more equitable than that. The Major Generals of the second and third divisions have reported to me that they have selected you (the twelve companies now present) as the fortunate ones on whom the glorious privilege of defending the rights and honor of the country has finally devolved.

Others, no doubt, may feel some disappointment and mortification, that they, too, cannot share with you at this time in the toils, and dangers, and honors of the present campaign.—Many have petitioned and entreated me to take them also into the public service. Most heartily would I have consented to do so, if it had been in my power. But the requisition was expressly limited to three regiments, and no more. Besides this, the Secretary of War, after learning that Gen. Gaines had called for a much larger requisition, and when he knew every thing known to us, as to Gen. Taylor's condition, expressly and promptly *required* me not to comply with it. Moreover, after the requisition was made, authorizing companies to contain as many as *eighty* privates, the Secretary of War desired that

they should be reduced so as not to exceed *sixty-four* privates, thereby considerably diminishing the number of the first call. Under these circumstances, I felt constrained to decline accepting more than would fill the requisition. The requisition from which all my authority is derived, was against it. The letter of the Secretary of War, commanding me not to comply with the larger requisition of Gen. Gaines, was against it.— His letter to reduce the *size* of the companies, if not too far advanced in organization, was against it,—and nothing in favor of it, but the patriotic eagerness of my countrymen to repel the insolent invader of our soil.

The letter of Gen. Gaines was one of *advice*, in anticipation of a call, and not a requisition at all. If considered as *mandatory*, it was void for want of authority. If (as it declares in express terms) it is regarded as *advisory* only, it turns out that I acted precisely in accordance with the wishes of the general government, in not complying with it. And more than all, suppose I had yielded to the enthusiasm of the moment, and instead of two thousand or three thousand men, I had sent five thousand or six thousand, what assurance have we that any more than the requisition would have been received? None, whatsoever; and we might have been doomed to see or hear of hundreds and thousands of our fellow-citizens rejected in New Orleans, without provisions, and many without money, to grope their way back to Tennessee, cursing the folly of her Governor, in having disobeyed all the orders and admonitions of the constituted authorities of the general government.

And now, Sir, having explained to you and the regiment under your command, and to our fellow-citizens at large, the principles on which you have been selected rather than others, to bear the time-honored standard of Tennessee to the field of battle and of glory, I have only to say, Go, gallant sons of gallant fathers, go and join with others of your countrymen, in driving back, if not already done, the insolent invader of our country, and if need be, to carry home the war into the very heart of his territory. Go, under that beautiful banner, which innocence, virtue, and beauty have presented to you. Never permit it—and I know you will not—never permit it to be lowered in the face of the enemy, whilst your regiment has one

soldier left to hold it proudly floating to the breeze. Go, and may a kind Providence attend you, and bring you back in health and safety, the pride of an admiring and grateful country.

AARON V. BROWN,

Governor and Commander in Chief.

## MESSAGE

*Of Gov. A. V. Brown, to the General Assembly of the State of Tennessee, October 6th, 1847.*

*Gentlemen of the Senate*

*and of the House of Representatives:*

Assembled as you now are, as the representatives of the people, you cannot fail to observe in the circumstances which surround you, increased cause of gratitude and reverence to that Supreme Being who presides over the destinies of nations.

The two past years have been signalized by unnumbered blessings and benefits. The labor of the husbandman has been crowned with abundance, whilst fair and remunerating prices have been received for the rich productions of his fields. Our commerce has been greatly increased, and our domestic industry, of every variety, has flourished in the most remarkable degree. Tranquility and good order have been maintained, and the supremacy of our laws acknowledged throughout all our borders.

In the full enjoyment of these blessings, to which may be added that of almost uninterrupted good health, the people of Tennessee have been steadily advancing in knowledge, in virtue, and indeed in all the elements of national greatness. It must be a pleasing duty to serve such a people, and a delightful task to add any thing valuable to the legislation of such a noble State.

When the reports of the various branches or departments of the State government shall have been made to you, I doubt not that you will find that all the duties of them have been performed with a promptitude and fidelity in perfect harmony with the other pleasing circumstances under which you have assembled.

The benevolent institutions of the State, (the Lunatic Asylum, and those for the education of the Blind and the Deaf and Dumb,) will be found to have realized, in a good degree, the expectations of the public. They will, however, continue to appeal to the noblest sympathies of our nature for still further advancement and promotion.

The sale of the Lunatic Asylum and its location in the country, for reasons which will be communicated in another form, has not been effected; and I recommend a reconsideration and amendment of the law directing its sale. During the past two years, I have many reasons to believe, that the institution has been well and faithfully managed, especially the female department of it, which has been superintended by a lady of singular energy, skill and ability for such a station.

From the Penitentiary, I anticipate a very satisfactory report to you. The convicts generally have been in the enjoyment of good health, and have manifested no spirit of rebellion or disobedience. The keeper, his deputy, and the other officers, having great skill and experience in such matters, seem to have blended the stern rigor of discipline with all the kindness and humanity which such a situation will admit of. The greater portion of the efficient labor of the convicts has been directed to the building of the State Capitol, under the law directing it so to be done. A most beautiful edifice is slowly rising up, likely to attract the admiration of the country, and to outstrip in magnitude, convenience, durability and elegance, the capitol of any other State in the Union.

I have no reason to recommend any change in this policy, nor any material ones in the details of the law on this subject.

There is no subject upon which I desire to hold communion with you more freely than on that of Education.

Our Universities and Colleges are, in the general, meeting the just expectations of their friends. Some new ones have

been recently established in the State, founded chiefly, if not entirely; on the enlightened liberality of individuals, which promise soon to rival their older predecessors in the diffusion of a sound and wholesome intelligence among the people.— Among these, it may not be considered invidious to mention the one at Lebanon, whose rising reputation gives fine promise of its future usefulness to the State.

Our county academies may also be said, in the general, to be doing well. But besides all these, we must have a full and complete system of common or primary schools, dispensing their benefits to all those whose means do not enable them to send off their children to distant seminaries of learning.

No system can be compared to this latter description of schools. They secure to the great mass of society an education, if not highly finished and polished, yet commensurate with the everyday wants and necessities of the people. We should never relax our exertions on this subject until we could send the gratifying intelligence abroad, that not one native born son or daughter of Tennessee could be found who could not read the Scripture of Divine Revelation, and likewise the laws and Constitution of the country. How such a blessed and happy result is to be attained, is a question constantly addressing itself to the friends of education throughout the land. That legislature which shall be able to answer it in the establishment of such a system, with adequate funds to support it, will have well entitled themselves to the gratitude of the present, and the blessings of future generations.

For the reasons formerly given by me to your immediate predecessors, I cannot recommend a present resort to taxation, until by some unequivocal expression of public sentiment, it is made manifest that such a measure would be cheerfully acquiesced in. How far it might answer a valuable purpose, to authorize such counties, whose population might be willing to do so, to levy and collect a school fund, for their own county purposes, to be applied in the same manner as the other school funds furnished by the State, and the propriety of such a law is respectfully submitted, both as to its constitutionality and expediency, to your consideration. Such legislation should be carefully guarded, both as to its amount and application.

If but a few counties should set the example of self-taxation for so noble an object, the beneficial effects resulting from it might open the way to its imitation by other counties, until public sentiment, although slowly and cautiously developed, might demand the measure as one of great policy, eminently calculated to improve the minds and elevate the morals of the whole community.

If, however, the wisdom of your honorable bodies should find insurmountable objections to this limited and experimental mode of eliciting an expression of public opinion, I know of no better plan than to husband the resources of the State Bank; and by establishing a sinking fund of adequate amount, finally absorb our outstanding liabilities and leave the whole capital and funds of that institution, amounting to several millions of dollars, as a permanent endowment of common schools. Taxation is therefore the immediate and direct mode of establishing the system. Through the agency of the bank is the more remote and contingent one; and the wisdom of the legislature must decide between them, or devise a better one than either.

With a mind fondly lingering over this subject, and unwilling to leave it, I beg permission to trouble you with another suggestion in aid of those already made.

We have no "Superintendent of Public Instruction." The examples of other States, and the very nature and importance of the subject, would seem to rebuke the omission. Even if such an officer were of temporary appointment, with no power over the funds, he might be of great advantage in rousing up and directing the sleeping energies of the people. He should be a man eminent for his attainments in science, and for his devotion to the moral and intellectual welfare of the rising generation. He should commune freely with the learned and the pious of the land. He should visit every county in the State. He should organize county committees of such zealous and patriotic citizens, as might agree to visit the school districts of their respective counties, and by suitable appeals and lectures, impart new vigor and energy to the present system. He should excite the acting school commissioners of each county to renewed exertions in raising and increasing the present school fund by voluntary individual subscription. In short, such a

man, by traversing the State, addressing his fellow-citizens at suitable times and places, and finally reporting to the legislature a full account of his labors, and the result of his best opinions, might well render a service to the cause of education, which would outweigh a thousand-fold the \$1500 or \$2000 which might be paid him. It cannot be necessary in this communication to elaborate the duties and advantages of such an officer, and I suggest his creation, because I earnestly desire you to do everything—I had almost said anything—for the advancement of so great and so good a cause.

The laudable anxiety exhibited by your predecessors to foster and encourage internal improvements in the State, gives assurance that that subject will engage much of your attention. Through the agency of the committee (members of the legislature) appointed by the legislature in 1843, and that of the commissioners appointed at the last session, settlements have been made with the several internal improvement companies, by which all the difficulties in the intercourse between the State and the companies have been obviated. The solvent and insolvent companies have been ascertained. With the former, nothing remains to be done, but to receive the dividends due the State, semi-annually, on the first of January and July; whilst from the latter, nothing is to be expected. I therefore regard the continuance of a special agent, as a mere collector of the State's dividends, as an unnecessary expense, as the duty could be performed by the cashier of the Bank of Tennessee, or by the Treasurer of the State. The officers from all the companies from which the State will receive dividends, reside in, or so near Nashville, that the payments could be so made without trouble or difficulty. The cashier or treasurer, however, should be required to file statements with the comptroller, exhibiting the receipts or disbursements of the roads, together with the duplicate receipts of the cashier or treasurer for the inspection and approval of the internal improvement board. The duty of collecting dividends during the last year has been performed by the Secretary of State, together with the other duties pertaining to his appointment as commissioner, which have now ceased, for which he was allowed five hundred dollars as an addition to his salary, the continuance

of which I look upon as an unnecessary expense, as the mere collection of dividends can be performed by the treasurer or cashier of the bank without additional compensation.

The completion of the Georgia railroad to Chattanooga, an event now soon to be expected, will constitute a new and important era in the commercial and agricultural history in the eastern portion of our State. It unlocks the door, which for so many years has been closed against the profitable exchange of her mineral and agricultural productions with the other States which surround her. If nothing more were done, her people might well exult in such a vast improvement in their condition. But the Hiwassee railroad, extending, as it will, the benefits of this improvement to a much higher point on the Tennessee at Knoxville, makes the completion of the whole line a matter of intense, and almost vital interest, to the whole of that large and interesting portion of the State. We have now good reason to expect the completion of this latter portion of the road. The company has been newly organized; its old liabilities have been, to a considerable extent, discharged, and the present excellent directory have exhibited a laudable determination to push forward the work with vigor and earnestness.

From Knoxville, if a well built McAdamised road, extending in the proper direction to the Virginia line, could be constructed, and the principal obstructions in the Tennessee river could be removed to the flourishing village of Kingsport, East Tennessee, reposing amid her lofty mountains, would be surpassed by no portion of our State in the abundant means of wealth and general prosperity.

If these grand projects cannot be carried on successfully by individual capital and enterprise, it will devolve upon you to determine whether any and how much assistance can be furnished by the State. The objects are of sufficient importance to engage in their behalf as full a share of State encouragement as her present liabilities and means would render prudent, and to this extent I earnestly recommend the subject to your attention.

In Middle Tennessee we are every day receiving the richest rewards from many of the improvements already made.—

The eye strikes at once on the map and traces out the many great roads stretching across the State, and centering at Nashville, a convenient point of the navigation of the Cumberland. So too, it glances along another road striking from Columbia, situated in the very heart of this middle region, and terminating on the Tennessee in its northern sweep through the State. Further north is to be seen a fine road coming in from Kentucky, terminating at Clarksville, and destined to contribute largely to the prosperity of a beautiful town now rapidly improving and bidding fair to become one of the most important commercial places in the State. Still the most superficial observer cannot fail to perceive the immense advantages to be derived by an extension of the Georgia road from Chattanooga to Nashville—advantages not to Chattanooga or Nashville alone, nor to the counties through which it would pass, but to almost every county in the middle portion of the State. This truth is every day becoming more manifest, in the increased anxiety every where displayed in favor of its construction. The corporation of Nashville has been authorized by the popular vote of the city, to subscribe for half a million of the stock, and many individuals of acknowledged sagacity and shrewdness in all that relates to the profitable investment of their funds, are known of, who intend to embark freely in the enterprise. In connection however with this work, the improvement of the Cumberland ought not to be lost sight of. A charter to individuals for this purpose was granted at the last session of the General Assembly, singularly defective in some of its provisions. I earnestly recommend its supervision and amendment in such a manner as to insure the speedy removal of those obstructions, so detrimental to the commerce and trade of the middle portion of the State. When the Chattanooga and Nashville railroads shall have been completed, and the obstructions in the Cumberland, the Elk, the Duck and the Caney Fork, shall have been removed, it would be difficult to find any region in the world possessing more advantages than Middle Tennessee. With a soil remarkable for its fertility—a climate happily exempt from the sickness of the south, and the intense protracted cold of the north—a population proverbial for its industry, sobriety and enterprise—with an easy

accessibility by her roads and rivers to the markets of New Orleans and through her proposed railroad to those of Charleston and Savannah, she may well challenge comparison with the most favored regions of the Union.

The Western District of our State is happily situated, in reference to natural facilities, for carrying off her agricultural productions. Lying nearly in a square, she is surrounded on three sides by two of the noblest rivers in the world, while the Hatchee, the Forked Deer, and the Obion, all navigable for small boats, penetrate into many of her richest and most populous counties. A project has however been started in the south proposing to extend to her further facilities by the construction of a railroad from Mobile to the Mississippi, near the mouth of the Ohio.

The engineer, Mr. Lewis Troost, son of the accomplished Geologist of the State, gives the following description of the route and the surface of the country over which it is proposed it should pass:—

“ Commencing at the city of Mobile, the route projected is in nearly a north direction, diverging slightly to the west, on the comparatively level lands dividing the waters of the Mississippi from those of the Tombigbee and Tennessee rivers, through the south-western portion of Alabama, the eastern and north-eastern of Mississippi, the Western District of Tennessee, and the south-west corner of Kentucky to the Mississippi river, at or near the junction of the Ohio. At this point it is suggested to cross the Mississippi river by a steam ferry; similar to that over the Susquehanna on the line of railroad between Philadelphia and Baltimore, and to extend the road on the west bank of the Mississippi to the city of St. Louis.

“ The distance from Mobile to the junction of the Mississippi and Ohio rivers on this line, would be about four hundred and forty miles, and from the mouth of the Ohio to the city of St. Louis, about one hundred and fifty miles, making the total distance from the city of St. Louis to the city of Mobile, equal to about five hundred and ninety miles.

“ A glance at the map of the States through which this route is projected, will indicate that from Mobile to the mouth of the Ohio, there is not a river or stream of any magnitude to cross, and that on the west bank of the Mississippi river up to the city of St. Louis, there is only one river, the Maramee, to overcome.

“ In the present communication it is proposed to say nothing of that part of the route between the city of St. Louis and the mouth of the Ohio. There can be no doubt that as soon as a continuous line of railway exists from the waters of the Gulf of Mexico to the Mississippi, at the junction

of the Ohio, the citizens of St. Louis, anxious to partake of the advantages of railroad communication, will be ready to meet it with a railroad from their city to the west bank of the Mississippi.

" St. Louis is the great depot of the vast productions of the Upper Mississippi and Missouri. She receives and distributes supplies for an immense extent of territory, exceedingly fertile in the production of articles which must be transported to markets other than those afforded at home. Her navigation to these markets is at all times dangerous, interrupted frequently by the shifting of channels and the accumulation of snags, and for weeks in the winter season entirely closed by ice. Her interests will, at no distant period, even if they do not now, point out the necessity of having constant intercourse with the south, uninterrupted by low water, by ice, or by the numerous dangers of river navigation.

" For eighty or one hundred miles, the country north of Mobile, through which the railroad will pass, is described to be a comparatively level sandy region, very favorable for railroad making, and covered with yellow pine of matchless height and straitness, affording timber of excellent quality in sufficient quantities to construct the road in its progress through it.

" Thence through Mississippi, and Tennessee, and Kentucky, where the line will run, the natural surface of the soil is said to offer no obstacles to obtain a strait route of easy grades, without heavy excavations or embankments. The character of the grading will be of the easiest description, there being no rock to encounter except at the northern termination of the route, near the Tennessee and Ohio rivers. Through the eastern part of Mississippi the route will pass over prairies from five to ten miles wide, and from twenty to thirty miles long. From surveys made for railroads through the western district of Tennessee, the natural level of the country is represented to offer so many desirable routes in this respect, that the chief difficulty will, perhaps, be in selecting the most favorable. Parallel to the Mississippi and Tennessee rivers are two ridges of highlands, on either of which the road might be located to advantage.

" The main line can be made to form a junction with the Tennessee river at or near Savannah, or at Perryville, which is in the vicinity of extensive beds of iron ore. At either place it would intercept the trade of the valleys on both sides of the Tennessee river, which now has to perform a tedious voyage around by the Tennessee, Ohio, and Mississippi rivers, of from four to five hundred miles before it arrives at the same parallel of latitude as the point of departure. From either Perryville or Savannah, at the great elbow formed by the Tennessee river, a branch might be made to Nashville, avoiding altogether the Cumberland Mountains, which present many obstacles of a serious kind to any other approach to Nashville from the seaports on the South Atlantic coasts. This branch to Nashville will form a link of the great chain of railroads now being projected to connect the Eastern and Middle with the Southern States, by running a line of railroads to the south and east of the Ohio river, and of which the Baltimore and Ohio railroad is the commencement. By the proposed route, Nashville can

have a much more direct and expeditious communication, with a better seaport for her purposes, and by far, over a more favorable route than by the route she is now seeking to establish, via Chattanooga. That this branch to Nashville, considered as a part of a line which must be formed at no distant day to connect the Northern, Eastern, Middle and Southern States together, is of great importance, there can be no question, when it is considered that it will run through some of the richest agricultural portions of the Union.

"Through the Western District of Tennessee are inexhaustible beds of marl, cropping out at the surface. This valuable material for agricultural purposes will form a great article of transport.

"There is no route for a railroad in the Union to compare with this.—Here is a main continuous line of 440 miles in length, running, without crossing navigable rivers or mountains, through the richest portions of three of the most productive States, where they are, in a great measure, deprived of all kinds of communication, terminating at one end at a desirable seaport, and at the other where it can command the trade and travel of eight States and the western territories, with lateral branches extending by short distances into the richest and most varied agricultural and mineral regions, which, although passing through different State governments, will be governed throughout by the same laws, subject to the same institutions, and will be under the same management and responsibility."

If this Mobile project be too vast for early or eventual execution, the sagacity of those who have charge of it, will not fail to discover how much better it would be to make the northern terminus on the Tennessee river, where it makes its great bend through the State, than to permit it to fail altogether. This would reduce its magnitude to a size entirely practicable, and be to the city of Mobile scarcely less profitable. To that point at or below the town of Waterloo, the Tennessee is easily navigable at all seasons of the year by most of the steamboats that ply on our western waters. Such a terminus would therefore be perfectly accessible to all the commerce of the Cumberland, the Ohio, the Mississippi, and Missouri, which might seek an outlet through the Bay of Mobile. Much of the Western District would still be deeply interested in its success, and the State would doubtless aid and encourage the project presented in either form, by all the means which could at any time be fairly and justly appropriated to its advancement.

The present period, however, is much more favorable to the execution of internal improvements by the enterprise and capital of individuals, than by the direct appropriations of the

States. There are but few of them who have not, on former occasions, either for banking or improvement purposes, contracted as large a public debt, as they now have any ability to meet. This is certainly so with regard to the State of Tennessee. So far, she has been entirely able to save herself from the reproach of having failed to meet her liabilities. A proper sense of pride, justice and honor, should restrain her from now creating against herself any new liabilities which she may have no means of meeting, even for the accomplishment of the most inviting project of prospective usefulness. On the other hand, the people, unlike the States, are less involved in debt at this time, than at any recent period. They have been blessed generally with good crops for several years, which have commanded remunerating prices. Other pursuits are understood also to have been eminently successful, so that all classes of the community have more ability than usual to patronise and encourage all safe and profitable projects that may be presented.

It is to this individual ability, and to the well known sagacity of our people, prompting them readily to engage in all safe and profitable investments, that we ought mainly to look, at least, for the present, for the further extension of our system of Internal Improvements.

It the discharge of the various duties which devolve upon you, none will require more earnest investigation and patient deliberation, than those connected with the important interests which the people have in the successful management of the Bank of Tennessee. You cannot exercise too much care in looking into its present condition and its past management, with the view of discovering any defects that may exist in its present organization, and of devising the best measures for increasing its usefulness and prosperity. When it went into operation it was regarded by many as an experiment which would inevitably terminate disastrously at an early day. The absence of the grand conservative principle of individual interests was the alleged capital defect in its organization, on which these predictions were based of its early failure. To this suggestion it was answered, that the combination of the interests of Internal Improvements and Education with Bank-

ing, would furnish a substitute for individual interest equally efficacious in securing a faithful and successful administration of its affairs. The experiment has now been on trial for nine years, a period sufficiently long to enable you to form a reliable opinion as to the probable success or failure of the experiment.

In a cheerful investigation into its past operations and its present condition, shall satisfy you that it has failed to accomplish in a reasonable degree the important objects of its creation, and that it is destined unavoidably to end in ruin and disaster, it would become your imperious duty to avert the threatened blow by an immediate provision for the gradual settlement and liquidation of its affairs. If, on the contrary, such an investigation shall produce the conviction, that the experiment has proved reasonably successful, and that the public interest would be promoted by its continuance, the duty of exerting the most possible vigilance in guarding it against future mismanagement and misfortunes, will devolve upon you.

Without assuming to pass sentence on the wisdom of establishing the Bank at all, or of uniting in one system the interest of banking, internal improvement and education, I have no hesitation in announcing to you that my investigations into its past transactions and its present condition, have disclosed to my mind no satisfactory reasons for recommending its discontinuance and abandonment. So far as the Bank was designed to furnish a sound and safe circulating medium, it must be admitted that it has been thus far successful. Its influence in mitigating the pressure of the pecuniary embarrassment which prevailed during the several years of its existence has been universally acknowledged.

The friends of education have abundant cause to be well pleased with its promptness and fidelity in the fulfilment of its obligations to Common Schools and Academies, whilst the present high credit enjoyed by our State securities fully attest its successful management of that branch of our financial affairs which have devolved upon it. Within the last nine years the bank has paid an aggregate sum of more than two millions of dollars, which has been appropriated by the State in diffusing the benefits of education and in the payment of the

accruing interest on her debt. Within the same period the nett profits of the institution have fallen but little short of two millions of dollars, showing an annual average profit of two hundred and sixty thousand dollars, an amount equal to nearly eight per cent. on its actual capital.

These results would seem to go very far towards proving that the experiment has been successful, and must have a strong tendency to dissipate the fears of those who have looked to its failure as inevitable—unless it shall be found upon investigation, that the losses sustained have been unreasonably large.

In the examination of this point, it will become material to ascertain at what period of time the largest portion of the losses have occurred, and if it shall be found, as it is believed to be true, that they occurred at an early period, and before certain important amendments were made to the charter, and that very little has been lost since that time, it will rather furnish a reason for an increased diligence in seeking for other defects, than for the total abandonment and annihilation of the system. The main ground on which it has been unsuccessful in accomplishing the objects of its creation, is furnished by the fact that its annual profits are not sufficient to meet the annual payments required to be made. This objection should have but little weight, if the burdens imposed upon it are unreasonably great, and that this is the case, will admit of no doubt, when it is recollected that the payments required to be made annually amount to about two hundred and seventy thousand dollars—an amount equal to more than nine per cent. on its actual capital.

In coming to the conclusion that the Bank ought not to be discontinued and wound up under existing circumstances, (whatever my opinions about banks of paper issue may be,) I have not failed to be duly impressed by the unavoidable pressure in our monetery affairs, which would be produced by the withdrawal of so large a portion of our circulating medium, as is now furnished by it, and by the collection of so large an amount of debts as are due to it. This pressure might be greatly mitigated, but could not be entirely avoided by adopting a liberal policy in the gradual liquidation of its affairs; nor have I overlooked the difficulties and embarrassments

which would be encountered in providing the means of meeting the liabilities imposed upon the Bank during the time required for its liquidation.

Influenced by these considerations, I cannot recommend the discontinuance of the Bank, but instead thereof, your attention is most earnestly invited to the investigation of such measures as shall promise to increase its profits, and render them sufficient to meet its liabilities. In view of the fact that for several years past the profits made at most of its Branches have been greater than those made at the principal Bank in proportion to the capital respectively employed by them, I submit to you whether the three branches now in a state of process of liquidation, may not be advantageously restored. In making this suggestion it is proper for me to remark that it is founded on information not possessed at the former session of the General Assembly, and is not intended as a condemnation of the act by which these branches were discontinued—that act might well be justified under the impressions which prevailed at the time of its passage.

It is now believed, however, that the progress made in settling their affairs will show that these impressions were materially erroneous, and that the losses sustained ought not to prejudice the claims of those interested to the restoration of these branches—being fully satisfied from a careful view of the character of the population interested, the anxiety which exists amongst them for additional banking facilities, (whilst the present form of the banking system continues,) and the increasing commercial interest at each of the places, I am constrained to recommend to you that these branches be restored. In connection with this subject I feel it also my duty to call your attention to the claims of the city of Memphis to an increase of its banking facilities. The rapid growth of this flourishing city, based on its proper commercial interests and advantages, would indicate it as one of the most eligible points in the State for profitable banking, and under this conviction, if you determine in favor of the continuance of the principal Bank, I recommend the establishment of a Branch or Agency of the Bank of Tennessee at Memphis, with such capital as can be advantageously furnished by the institution. But I cannot indulge the hope

that the adoption of these suggestions would enable the Bank to increase its profits to such an extent as would meet all of its liabilities—the necessity would therefore still exist for an investigation of the best means of diminishing the present liabilities of the Bank. These liabilities at present amount to about two hundred and seventy thousand dollars annually, whilst the annual average profits, heretofore, have been about two hundred and sixteen thousand dollars.

By an act passed in 1844, the Treasury is required to make up the deficiency unavoidably occurring on account of the inability of the Bank to make profits sufficient to meet the liabilities chargeable upon it. I submit to you whether a sinking fund could not be set apart by the treasury, without any increase of taxation, to be annually vested in the purchase of State Bonds at their current value, as a means of gradually reducing the liabilities of the Bank to a sum that would not exceed the amount of its profits. This suggestion will receive additional weight from the consideration, that under existing circumstances, the deficiency may be permanent, and therefore constitute a permanent drain upon the treasury. It is believed that a sinking fund of one hundred thousand dollars, furnished by the treasury for five years, would so far reduce the State debt, and consequently the liabilities of the bank, as would enable the institution after that time to meet all burdens imposed upon it.

It gives me great pleasure to express to you the belief, that the bank has been faithfully and satisfactorily managed during the last two years.

The report of the President and Directors will contain all the information necessary to enable you to understand its present condition, and to devise the proper measures for rendering it more useful and profitable in the future, whilst it will exhibit a very large increase of the profits during the last two years.

Since the last session of the General Assembly, a war has been declared to exist between the United States and the republic of Mexico. The circumstances which led to this declaration were such as to extort it from the Congress of the United States by an almost unanimous vote—abolitionary fanaticism

alone stood out against it. Every representative from Tennessee, of both political parties, voted for it. Ten millions of money, and authority to call into the public service fifty thousand volunteers, for the purpose of prosecuting the war to a safe and honorable peace, were voted by Congress and placed into the hands of the President. Under this act, a requisition was made on this State on the 16th of May, 1846, for one regiment of cavalry or mounted men, and two regiments of infantry or riflemen.

On the receipt of this requisition, I issued my proclamation, dated 24th May, 1846, apportioning the call equally and fairly among the three grand divisions of the State. It was nobly responded to. Instead of three thousand, about thirty thousand rushed forward with eager anxiety to engage in the service of their country. The call was met so promptly, that the troops assembled in advance of any officer of the United States, either to muster them into service, or to make those usual advances of money so necessary to troops suddenly called on to leave their home on so long and distant an expedition. To remedy this circumstance, I appointed suitable officers to inspect and muster them into service in their respective quarters of the State, rather than subject them to the uncertainty of being rejected after they had gone to a distant place of rendezvous.

To make a suitable advance of money to each officer and soldier, to defray all the expenses incident to their encampment at Knoxville, Nashville and Memphis, and also subsist the East Tennessee troops in their march to the latter city, required the negotiation of large sums of money.

The Union and Planters' Banks, with a patriotism which cannot be too highly extolled, promptly stepped forward and proposed to lend any sum of money, not exceeding one hundred thousand dollars each, which might be demanded by the occasion. Without any law authorizing me to borrow money for this or any other purpose, but unwilling to submit to any delay, I took the responsibility of negotiating with the Union Bank for some sixty or seventy thousand dollars, which were applied to the above objects of expenditure. So soon, however, as our troops were gone, and the state of my official business

would allow of it, I repaired to Washington City, whilst every item of expenditure was fresh in my recollection and those of my officers, and presented my accounts for settlement; and I am happy to say they were promptly but thoroughly examined, and allowed by the proper department, with perhaps the single exception of interest, for which no existing law of Congress was supposed to provide, but which, I doubt not, will be hereafter adjusted satisfactorily to the bank. It is with pleasure, therefore, that I inform you that in going beyond the law, and assuming the responsibility of raising this sum of money as the Chief Magistrate of the State, no debt was incurred by which the State can be in any wise injured.

The advances that made this unauthorized negotiation necessary, were indispensable to the comfort of the troops. Volunteers suddenly called on to leave their homes on such a campaign, could not well afford to equip themselves out of their own private means, and to support themselves in their respective encampments until the arrival of the officers of the United States, who had no idea of so prompt and early a movement, for such had been unknown before in the volunteer service of the United States; nor could the East Tennessee volunteers, suddenly called on to march four or five hundred miles to Memphis, be expected to be prepared with ready means of their own to bear their expenses.

But whilst I took on myself as the Executive of the State to make this negotiation, I endeavored to consult the most rigid economy, and to make only such accounts as the United States would recognize as just, and to appoint only such officers as they would think to be absolutely necessary. Under this view of a just and proper economy, I left the troops (except those of East Tennessee, on account of their distance) to subsist themselves on their travel from their respective neighborhoods to the places of rendezvous, precisely as is done by the laws and regulations of the United States. But I established encampments at Knoxville, Nashville and Memphis, for the reception of them as fast as they should arrive, where they were attended to by one or two suitable officers, and supplied with the same rations as are allowed by the United States to their own troops. These arrangements, I am happy to believe, proved entirely

satisfactory, not only to the United States, but to the troops themselves, with perhaps a solitary exception, which, as it relates to my Executive action in carrying out the requisition on this State, is here submitted for your consideration.

On the 6th of June, 1846, I received the following communication, recently found, after diligent search, and which I had supposed might have been thrown aside, as not important to be preserved :

“ CAMP BROWN, June 5th, 1846.

“ To the Hon. A. V. Brown, Governor, &c.

“ DEAR SIR: On to-morrow evening I will have the honor of leading ninety-four of the gallant sons of Giles County to an encampment on Brown's Creek. By the request of the company I have the honor to ask of you the favor of selecting us a proper and judicious place of encampment, where we can have water and rest on Sunday. We have camp equipage and a wagon, and will be prepared to take care of ourselves in soldiers' style. We expect to be ready to be mustered into service on Monday morning.

“ I have the honor to be, very respectfully,

“ Your obedient servant and friend,

(Signed)

“ MILTON A. HAYNES,

“ Captain Giles County Mounted Riflemen.”

This communication was not addressed to me as a private individual—it was addressed to me as Governor of the State, and delivered to me at my office as such. It spoke nothing of one night, but several nights, and the greater part at least of the two days.

It made no allusion to going at all to the encampment. It asked no privilege of encamping on my grounds, nor did it in the slightest degree, in form or manner, call up the question of my individual hospitality. It avowed the intention to encamp on Brown's Creek, a small stream of excellent water directly on the road, which had borne that name from the earliest settlement of the country, and on which I had no lots or grounds at all. Regarding it, therefore, as an application to me as the Executive of the State, for the selection of a public and additional encampment to the one already at Nashville, I returned the following answer, in accordance with the advice of the Adjutant General of the State and of my own sense of duty and propriety.

" NASHVILLE, June 6th, 1846.

" I have no opportunity to procure an encampment in the neighborhood you mention, and no officer to send to attend you. My encampment at Nashville is at the Race Track, where some of the troops are yet encamped, where you and company can have provisions and horse feed provided.

" In haste, yours, &c.

(Signed)

AARON V. BROWN."

This reply was predicated on the idea, that to furnish, as I had done, the three encampments at Knoxville, at Nashville, and at Memphis, with suitable officers to attend them, was all that a just sense of economy and the practice in all such cases, both in and out of the State, would allow of; besides, I was by no means confident that the United States would settle the accounts made at two separate encampments so near Nashville.

No other volunteer company had received any such special accommodation, and I desired to mete out the same measure of justice to all. To avoid all difficulties and complaints, and to enable the company to reach a better and more comfortable encampment than it was possible to furnish at Brown's Creek, I threw open the doors of my general encampment and invited them, by a march of an hour long, to partake, with their brother soldiers, of its ample supplies and accomodations.

I lay these precise facts before you, that they may go upon the permanent records of the country, repelling, as they do, every idea of Executive inhospitality to these brave and gallant men.

To my Quartermaster General, G. W. Rowles, and to Major General Brazelton, and to Inspector General Coe, and Major General Hays, I am under, and the volunteer service of the State is under, many obligations for the promptitude, skill, and energy with which they conducted the operations in the respective divisions of the State.

In the transactions of the middle portion of the State, I cannot withhold from Major General Bradley, and Adjutant General Turner, equal expressions of gratitude for the services which they rendered.

Early in the month of June, the three regiments, (two only fully organized) were handed over to the United States. They

were the flower and chivalry of the State. The sons of those worthy sires who, under Jackson, Carroll and Coffee, in former days, had shed so much lustre around the name of Tennessee. Would these, their descendants, prove themselves worthy of such illustrious ancestors?

I did not doubt it—no one doubted it—they went forth in a just cause. Not one of them felt that it was an unjust one, or they would not have gone. They went forth, and on every battle-field, at Monterey, at Vera Cruz, at Cerro Gordo, they performed deeds of heroic valor, worthy of Tennessee in the proudest days of her glory. But it was not on the battle-field alone, that your regiments bore your banner so high and so proudly. In the toilsome march, beneath the burning sun, in the pestilential encampment, everywhere, and under all circumstances, your volunteers well sustained the honor of the State. In behalf of our whole people, I recommend the strongest expression of public gratitude and admiration for their heroic services, and that a full register of the names of every soldier of the three regiments be made out and safely deposited in the new capitol, when completed, that posterity may know who they were that contributed so largely to the honor and glory of the Commonwealth. Let the State contribute largely to the erection of some lofty monument to the memory of those who fell, either in battle or by disease, in the prosecution of a war, which could not have been avoided without a sacrifice of national honor, dignity, and character.

But the patriotic devotion of our fellow-citizens has been tested by another requisition, recently made for two more Regiments of Infantry from the State. It is with no common degree of pride that I announce the pleasing fact to you, that notwithstanding the many appeals made to the people of the State, through a portion of the public press, and the debates and discussions of the past summer, against the justice, propriety and necessity of the Mexican war, the chivalrous sons of Tennessee have responded to the call with a noble enthusiasm.

Five companies were called for by my proclamations from each Major General's division in the State, thereby giving, as on the former occasion, a fair and equal chance to the citizens of every portion of the State.

Many more companies reported themselves than could be selected to fill the requisition, whilst many others were known of who were in a forward state of completion, when the time arrived for making selections. It cannot, I hope, be considered invidious to mention, that East Tennessee was peculiarly chivalrous on the occasion, having furnished not only the five companies called for, but tendered ten other companies besides, composed of her brave and hardy sons. The officers of the United States having learned, by experience, something of the promptitude and celerity with which the citizen soldiers of Tennessee always rush to the standard of their country, have promptly repaired to the State to aid in carrying out the movement, exempting the Executive from much of the labor and responsibility of a former occasion. The volunteers are now on their way to their respective encampments at Nashville and Memphis, where they will be regularly organized into Regiments, and pass over to the command and service of the United States. If the war continues, the whole community cannot but feel the deepest interest in the future destination and fortunes of these brave and gallant men.

The career of their predecessors in this war has been so distinguished—for their patience under fatigue, for their ready obedience to the command of their officers, for their undaunted courage in the face of the enemy—that it would be difficult to emulate their bright and glorious example. But I hazard nothing when I assure you that these regiments will go forth nerved to new energies by that high example, and firmly resolved, living or dying, to add new lustre to the name and character of Tennessee.

But at the moment when I am writing down these proud and pleasing assurances, the news may be brought to us that a treaty has been made, terminating the war between the two nations. I should hail with rapture and delight the bright and beautiful Goddess of Peace, at whose shrine the American people have always delighted to worship. Her return would be more welcome, because she will doubtless bring with her all that was ever demanded—“indemnity for the past, security for the future.” This was all that the Administration at Washington—the President, and his friends in Congress and through-

out the Union—all that the Commanding General in his Proclamation in the earliest stages of the war ever demanded. The territory she is expected to bring will be stained with no blood unjustly shed, in the proud and lustful spirit of conquest. She will bring it as the only indemnity Mexico can offer against the expenses we have incurred in the prosecution of a war, which Mexico herself was the first to proclaim, and first to commence. A war originating in Mexico's unjust attempt to reconquer a territory which had been, under all the forms of our Constitution, made one of the States of the Union; a war which she wantonly and wickedly provoked by an invasion of that part of Texas lying east of the Lower Rio Grande, to which our title extended (whatever might be said of the Upper Rio Grande) without a shadow of a doubt. But I cannot shut my eyes to the great fact, that there are many persons, of this State and elsewhere, who, in anticipation of a result such as we are now considering, have labored hard to convince the people that, if indemnity in land against the expenses of this war, and for the purpose of paying the millions that are due to our citizens, should be willingly offered by Mexico, such an indemnity should be scorned and rejected. Whether the infatuation of party will persist in such doctrine, remains to be seen. But I most earnestly recommend to this General Assembly, never to adjourn until you have instructed your Senators and requested your Representatives not to vote against a treaty of peace, or refuse the necessary appropriation to carry it into effect, only because it may contain a cession of territory to the United States. Indemnity against the war, I hold to be clearly right—Mexico herself, I doubt not, will so consider it. Shall the United States reject the indemnity because it may be in land, and not in money? She has not the latter to pay, and the former constitutes her only remaining resource. It will, therefore, be indemnity in land or nothing. *I repeat, in land or nothing.* What wise or sensible man, in the management of his private affairs, would reject a payment in land when his debtor had no other resource left, with which to satisfy his demand? The plea that our country is large enough already, takes no account of the future millions of freemen who are to inhabit it. The natural increase of our own population—the

amazing emigration to the United States from the starving and oppressed nations of the old World—the genius, industry, and enterprise of the Anglo-Saxon race—all unite in demanding that our country should be extended from ocean to ocean—widened out in all her borders, whenever it can be done consistently with the dictates of national honor and justice. Such an opportunity will now be offered freely to us, and perhaps for the last time in the history of our country.

The pretext that any new accession of territory, may endanger the perpetuation of our glorious Union, is only a shallow device for alarming the timid and deceiving the ignorant.

The same cry was raised when Louisiana, extending from the Gulf to the Northern Lakes, was acquired—the same when Missouri was admitted—when Florida was purchased—when Texas, neither conquered nor purchased, walked into our Union by sovereign compact and agreement. The Union dissolved !! dissolved by the growth and enlargement of our free and happy Republic !! No. It grows stronger and stronger by it; the very elements of perpetuation being increased in the exact proportion of its contemplated magnitude. The spirit of modern abolitionism, if it existed at all in the early days of the Republic, stood rebuked by the Constitution.. It stood equally rebuked in the Missouri compromise, which was but a virtual continuation of that of the Constitution. So it will be in the extension of the same line on latitude thirty-six thirty, through the newly acquired territory of California. What a beautiful harmony in our national action would then be exhibited ! Our revolutionary fathers inadusting the proportion of the free and slaveholding States, substantially fixed it on latitude thirty-six thirty. The next generation (for the Revolutionary one had nearly departed,) then extended that line through the newly acquired territory from France, and now it is proposed (and to this I give my assent, and earnestly recommend that you give yours) to extend this line still westward, through the territory which may be ceded to us by Mexico, to the shores of the Pacific. This being done, the great strife and contention about slavery, we may hope, will be settled and ended forever. Then no "Wilmot proviso" will break upon our repose, like a fire-bell by night. The line of separation will be

fixed. All men would understand it and conform to it, in the formation of States. Nor need the conscientious and sincere friend of the black race, (for there are many such) be in the slightest degree apprehensive that slavery, though permitted to exist south of that line, would ever be, in fact, established in any one of the States of California. The character of the country—the nature of its resources—the insecurity of such property on many accounts, would deter any slaveholder from taking that description of property with him. The question about slavery, therefore, loses much, if not all, its practical importance in relation to the territory now to be acquired from Mexico, as has been truly said by one of our greatest statesmen, and said, too, at a most auspicious moment for the peace and harmony of our country. The Union, therefore, I hold to be in no danger from any new accession of territory. I believe that, under the Providence of God, it is destined to last and endure forever, stretching, like the beautiful rainbow of Hope and of Promise, until it bespans this whole continent.

A vacancy has occurred in the Supreme Court by the resignation of Judge Reese, now on file, to take effect from the first day of the present month, which places it in the power of the General Assembly to fill it, without the intervention of the Executive. Another vacancy occurred in the 4th Judicial Circuit, by the death of Judge Cannon, which was temporarily filled by George W. Rowles, Esq. Vacancies in the 4th, 8th, and 10th Solicitorial Districts have been filled by the appointment of Mr. Joseph E. Pickitt, of Carthage; Mr. J. P. Campbell, of Columbia; and Mr. T. P. Scurlock, of Jackson, whose commissions will expire with the close of the present Legislature. Mr. Nelson, Register of the Mountain District, having resigned, the vacancy was filled by the appointment of Mr. J. H. Minnis, and subsequently, on his resignation, by the appointment of Mr. J. F. Brown, of Sparta.

It will also be your duty to elect a Senator to Congress, to supply the place of the Hon. Spencer Jarnagin, whose term of service expired on the 4th of March last. I need not anticipate, by a single remark, the care with which you will select some individual, eminent for his ability and patriotism, to fill

this exalted station, at a crisis so important, to the honor and welfare of the nation.

I have now presented to your consideration all the subjects which I desire to present before you, and close this communication with the sincere and confident hope that your deliberations may be distinguished for their harmony, and may result in the advancement of the best interests and welfare of the State.

I have the honor to be,

Your obedient servant,

AARON V. BROWN.

EXECUTIVE OFFICE, OCTOBER, 1847.

## VALEDICTORY ADDRESS

*Of Ex-Gov. Aaron V. Brown, delivered October, 1847.*

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*Gentlemen of the Senate  
and of the House of Representatives:*

I present myself before you to-day, that I may lay down, in your presence, all the power and authority appertaining to the Executive office of the State—to lay them down at the feet of the Constitution, that you may presently confer them, in due form, on my honorable successor. Such has been the declared will of my fellow-citizens, and to their decision I bow, without murmur or regret.

In the two years, during which I have filled the exalted office from which I am now retiring, events of the greatest magnitude have been crowding upon us. The annexation of Texas, although commencing before, has been consummated, adding an empire to the republic; an empire, large as modern France, with a soil rich as that of Egypt, and a climate soft and delicious as that of enchanting Italy. The settlement of the Oregon question confirmed our title to another empire, larger than the first, and extended the now undisputed boundaries of the republic to the shores of the Pacific. When these two great events are contemplated together, what an amazing spectacle of territorial grandeur does our country at this day exhibit!!

At first we had but thirteen States, stretching in narrow, but dazzling brightness, all along the shores of the Atlantic. In a few years, our population scaled the eastern mountains—

poured itself into the great valley of the Mississippi, felling its ancient and unbroken forest, building up towns and cities, rearing halls of science, and temples of religion, until what in the old world would have required a long succession of ages for its accomplishment, is here presented as the magic work of a single generation.

But, in addition to all this, what do we now behold? Yet another empire, large as Texas and Oregon both put together, subdued by our arms, subjected by the law of nations to our military government, and destined, as I believe, and hope, ere long, to constitute an integral portion of our great republic. Wonderful nation!! Stretching from ocean to ocean, and from the Gulf of Mexico to the great inland Seas of the north!! Millions yet unborn, the sons and daughters of freedom, who are hereafter to inhabit this continent, will bless and honor the memories of those illustrious statesmen and patriots who have made or confirmed these amazing accessions to our country.

But it is not the physical grandeur of our country alone, which should challenge our patriotic emotions. After a long period of profound peace, when her old and renowned warriors, who used to adorn her camps and her history, had all been "gathered to their fathers," she has raised and set forth a new race of heroes, whose gallant deeds at Monterey, at Buena Vista, at Vera Cruz, at Cerro Gordo, and at the late great battles before the City of Mexico, have filled America with joy, and the world with admiration.

Nor yet is it her amazing expansion, nor the heroic deeds of her warriors, that should challenge our highest degree of patriotic ardor. No, it is not these, great and dazzling as they may be,—it is from our sacred Constitution, securing to us our civil and religious liberties, and from our glorious Union, protecting us in their enjoyment against all foreign enemies, that the patriot should draw his deepest and holiest emotions. By these he should be chiefly inspired, humbly to supplicate that they might last and endure forever—

"Till wrapt in flames the realms of ether glow,  
And Heaven's last thunder shakes the world below."

Turning from this bright and animating picture of national

greatness, let us look to the no less cheering and happy condition of our own beloved and honored Tennessee.

You and I (turning to the Governor elect) have lately traversed her in all her borders; we have scaled her eastern mountains; we have penetrated her rich, luxuriant valleys; we have reposed on the banks of that mighty river which marks her western boundary; everywhere we have seen a contented, happy, and patriotic people—a people exempt from debt—their industry crowned with abundance—their institutions of learning crowded with the votaries of science; whilst religion is ministering to them her consolations in all her consecrated temples. Such are the people, and such their condition at the moment when you are called to preside over their destinies. I congratulate my fellow-citizens that such is their condition, in despite of all the prophetic annunciations of approaching ruin. The ocean and the lakes have become no vast solitudes. The husbandman has not been driven from his home by the stench of the rotting productions of his farm. The industrious manufacturer has not been doomed to abandon his loom and his work-shop for the already too much crowded pursuits of agriculture. No. Thanks to a kind and overruling Providence. Thanks to the industry, sobriety, and enterprise of our people. Thanks to the wisdom and patriotism of our rulers, however much they have been reviled and persecuted.

Thanks to all these, that prosperity, like an angel, is still hovering and smiling over our State and nation.

I should have rejoiced, gentlemen, if, on my retiring from office, I could have congratulated you and my fellow-citizens at large on the return of peace.

That beautiful goddess is yet standing on the confines of Mexico, holding out the olive branch to our deluded and obstinate enemy. Our victorious arms have wrested from her city after city, and province after province, until our star-spangled banner is this day proudly waving over the halls of the Montezumas. But let it be ever recorded, let all christendom know, that not a gun has been fired, not a city has been taken, not a province has been invaded, without our having first tendered to her the terms of a just and honorable peace. "These terms were indemnity for the past and security for the future"—in-

demnity for the millions due to our citizens—indemnity for the millions which we have expended in the prosecution of a war which she was the first to declare, and the first to commence—security against any further invasion of territory, which has been made a part of our Union under all the forms of the Constitution, and to which she has no shadow of right, by the solemn declaration of every civilized nation in the world. This indemnity and security we will have. She may fly from her capital to her mountains, but our victorious eagles will pursue her to their loftiest summit, and the thunder of our cannon will extort it from her.

With the return of peace with Mexico, with no cause of future irritation with any foreign nation, with all the elements essential to national greatness, what prophetic spirit can anticipate the future growth and progress of our nation—all that the heart can desire—all that the imagination can conceive of—lies before us. How brilliant, how animating the prospect! If we are true to ourselves, true to the Constitution, true to our bright and glorious Union, earth has no happiness, Heaven has no blessings, which may not belong to the people of the United States.

But, gentlemen, pleasing and delightful as are these meditations, I must not and will not forget that the chief honors and ceremonies of this occasion are intended for another, I therefore conclude, by tendering, to you all, the homage of my profound respect.

## REMARKS

*Of Mr. A. V. Brown in the Senate of Tennessee, on presenting  
the Resolutions proposing to give the Election of President  
directly to the People, on Thursday, Oct. 18, 1827.*

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Mr. Brown laid on the table of the Senate the following Resolutions and remarks:

*Resolved*, By the General Assembly of the State of Tennessee, That the Constitution of the United States should be so amended, as to give the election of President and Vice President directly and conclusively to the people, preserving the present relative weight of the several States in the election.

*Resolved*, That many of the measures of the present administration of the general government are injurious to the interests, and dangerous to the liberties of the country.

*Resolved*, That the surest remedy for these evils, now in the power of the people, is the election of Andrew Jackson to the Chief Magistracy of the Union.

The mode of appointing the President, as now prescribed by the Federal Constitution, has been the source of so much inconvenience, and is the subject of such general discontent, that a sufficient reason for recommending its amendment need not be sought in the experimental nature of the instrument itself. The evils inherent in the last election, and the anxieties connected with the next, give it a claim to public deliberation, which none but the selfish and the servile can disregard. It cannot be fairly denied, that the choice of our Chief Magistrate was intended to spring from the free and unobstructed judgment of the people; and it must be admitted, that in the

late election, which was conducted according to the *forms* of the Constitution, that intention was disappointed. A charter, the letter of which conflicts with its spirit, the details of which counteract its principles, is certainly defective. On the occasion alluded to, the candidate who, in the primary election, obtained the highest number of votes, and at the moment of final competition bore incontestible evidence of being the choice of a majority of the American people—evidence which subsequent popular decisions have confirmed, was superceded by a combination, that triumphed only because the competition was transferred to a small pre-existing body of electors, of which one party to the combination was an influential member.

The crisis was calculated to awaken the worst designs of selfish ambition; and if the motives of men are to be determined by their actions, seems to have had its sinister opportunities fully employed. According to Mr. Adams' declarations in his book on the fisheries, as well as to recollections and convictions resulting from the public observation of public men, political hostility and personal estrangement had for several years, and on momentous subjects, separated himself and Mr. Clay. No approach to union, no inclination for amity, was manifested by either, until it was ascertained that as long as they obeyed the principles and supported the opinions which had formed their respective pretensions and produced their avowed opposition, the power at which they grasped was not to be gained—that continued disunion would frustrate, and that instant combination would gratify their mutual ambition. Then, and not till then, long cherished distrust was mutually forgotten, oft expressed opinions were practically renounced, and adverse principles openly abandoned. Each became the artificer of that man's promotion whose depression, up to the moment, had been a chief object of his exertions. The highest amount of executive power was divided, and the closest fraternity of political fortune was established between them. What is enormous, need not be exaggerated; what is flagrant, requires no demonstration. Mr. Adams desired the office of President—he went into the combination without it, and came out with it. Mr. Clay desired that of Secretary of State—he went into the combination without it, and came out with it.

Of this transaction, the simplest history is the best analysis. Where a change of political principles, or even of private estimation, is the immediate cause of personal gain reciprocally to the agent and the object of the change, impurity of motive is necessarily concluded. Whoever expects otherwise, must expect the laws of reasoning, imprinted by the Deity on the human mind, to be altered. It is equally certain, that a daring ingratitude is displayed by the citizen who insults the majesty of the people with the very power which their generous confidence had placed in his hands. To believe, when proof is insufficient, is not greater folly than to doubt when it is convincing; and where circumstantial evidence is conclusive, positive testimony, which is always liable to a corrective collation with circumstances, is rather curious than valuable. It was but the other day that an atrocious murder in the enlightened State of New York was detected and punished upon circumstantial evidence; and surely a process of reasoning which will sanction the destruction of one man's life, is rigorous enough to determine the conduct of another. Those who demand stronger evidence of an improper understanding between Mr. Adams and Mr. Clay than that afforded by their combination itself, must be prepared to contend that it is not in the nature of things for circumstances to evince guilt, and must be disposed to suspend their judgments until the parties confess their crimes. It ought, however, to be remembered that all our knowledge of motives and character, every decision we form respecting mental occurrences, is drawn from the consideration of circumstances, and that it is out of the ordinary course of things for the confession of the accused to precede the sentence of the proper tribunal.

The members of this Assembly, therefore, in protesting against the election of Mr. Adams as impure and anti-republican, are sensible of no precipitancy of judgment, or too great a license of language. Unwilling to assert what is doubtful, they are determined to speak what is true; nor do they deem it necessary to fortify their protest by the numerous collateral proofs to be derived either from the contradictions contained in the studied vindication of the Secretary of State; from the confessions of his friend, his colleague and his champion; or

from the pertinent and concurring reminiscences of respectable witnesses. The object of these resolutions being remedial, not vindictive, it remains, after exemplifying the actual danger of the present plan, to show the probable advantage of the amendment proposed. In the first place, by giving the election directly and conclusively to the people, we should conform to the fundamental principles of our government, which was departed from in the formation of the Constitution, from apprehensions, which experience, as far as it has gone, proves not to have been well founded. Another benefit will be, that the dependence of the Governor on the governed, so desirable in a republic, will be thus effectually secured. A consideration of equal moment, both as it regards the theory and practice of our government, is to be found in the fact, that an election placed entirely in the hands of the people, must result in the expression of their choice. This will exclude the formidable evils of previous cabals, concomitant corruption, and subsequent resentments. The people will be satisfied with their own work, and at succeeding elections, will deliberately confirm or prudently correct their former preference. Nor is it probable that thereby purity of elections would be obtained at the expense of public tranquillity. The turbulence apprehended by the framers of the Constitution, is less likely to be excited by the process of a fair and open election, than by the contentions sure to arise, under the present narrow system between parties inclining to practice, and parties endeavoring to defeat corruption. Besides, the people of the United States are further advanced in the knowledge of self-government than they were when the Constitution was adopted; more capable of forming a prudent choice, and of avoiding those convulsions to which a less informed community might be exposed by the immediate exercise of a right so important. The division of the Union into States, and the consequent modification of the elective process, will have a tendency to limit, within moderate bounds, the effect of any agitating impulse; and it should never be forgotten, that when any faculty of government is susceptible of salutary exertion by the people, to lodge it with a body of trustees, for their benefit, is an odious and pernicious departure from the cardinal principles of free government.

These are some of the reasons which may be assigned in favor of the first resolution.

As experience proves that the present system has a tendency to destroy the purity of elections, it also shows that a bad administration is likely to spring from, and re-produce an impure election. When a President gets into power with so small an "approach to unanimity" as to be indebted for his office to the rewarded support and obvious tergiversations of his most inimical competitor, the motive which reduced him to this abasement will naturally prompt him to administer the government, not with a view to the public welfare, but with an eye to his own popularity. Hence those branches of policy which time has sanctioned, and the fruits of which, though nutritious and substantial, are neither captivating by novelty nor dazzling by splendor, will be neglected for visionary and ambitious schemes, devised to amuse the imagination of the public, and to reflect on their authors the credit of superior patriotism, invention and sagacity. With the delusive machinery will be combined the influence of Executive patronage, which, in most countries, is mighty, and, even in our own, is powerful. This great engine will be perverted from its rightful use to the purchase of praise for the Executive, and aspersions of its adversaries; and should eminent services and virtue render any citizen a dangerous competitor for the Presidency, slanders proportioned to his merit will be fabricated by interest and imposed on credulity. Such is the *natural history* of power unjustly acquired in a free country. Since the last election, accordingly, the attention of the general government, averted from the salutary relations, which, for a series of years, had secured for us the enjoyment of a productive commerce, has been devoted to the formation of chimerical and intrusive alliances, the avowed object of which was an outrage upon the spirit and independence of the nations whose religion and laws it was proposed to subject to our kind control and supercilious care. The mischief of this ambassadorial crusade, of this egregious departure from that modesty and reserve (the dictates of dignity and prudence) which had exalted us in the family of civilized nations, promises to equal the absurdity of its conception. Besides the unnecessary and enormous amount

of public money expended, and the ridicule and censure of foreign nations to which this strange embassy has exposed us it will be well for our country if it involves us in no other and greater calamities.

To suit his theory to his practice, the President claims almost boundless authority for the Executive; ejects the Senate from all participation in the institution of embassies and the commissioning of envoys; compares the influence of the constituent on the representative to the effect of paralysis on the human body. In the true spirit of arbitrary condescension, he displays to the nation fantastical projects of benefaction and improvement, befitting the gracious king of star-gazing subjects, rather than the responsible agent of free people. Nor is the profusion with which public money is expended, and the mismanagement of the government abroad, greater than its profligacy at home. The chief member of the cabinet, whose duties require his greatest sagacity and most intense application, annually deserts his department, and displays himself as an itinerant *Rhetor* at electioneering feasts, exceeding some of his colleagues in this official degradation only as far as he exceeds them in ability. *In the days of Washington and Jefferson, it was not in this manner that the great officers of State were employed*; neither Hamilton nor Madison was seen traversing various States at seasons of election, to rise before carousing multitudes, and to pour forth praises on the President in office, whilst the flood-gates of defamation were opened against his expected competitor. Those great men never dealt in boisterous harangues, unbecoming the gravity of statesmen; in banquet bravadoes, consistent neither with decency or courage; nor in bold assertions, bearing no comparison with facts. One was devotedly engaged in the definition of our rights at home, and in the expansion and security of our interests abroad, now violated and neglected; the other was sedulously employed in the creation of a system of economy and credit, now impaired and abandoned; whilst both had exerted their mighty intellects in the formation of that bond of national union, which it is the earnest and ardent desire of this General Assembly to maintain and perpetuate. They have made this brief, but, in their opinion, impartial reference to the conduct of

the present administration, in support of their second resolution.

In regard to the third resolution, it will be sufficient to say, that the acknowledged popularity, the established fame, and well tried patriotism of *Andrew Jackson*, designate him as the candidate most capable of, and most deserving, a successful competition with Mr. Adams. Here he has been known, from the dawn of manhood—through the vicissitudes of life and fortune—in peace and in war—and we speak the sentiments of our constituents, as well as our own, when we declare that the fire of youth never impelled him beyond the bounds of honor, and that the coldness of age has not made him deaf to the voice of patriotism. As a man, he has always enjoyed our peculiar esteem; and as a public agent, our highest confidence. The force and fitness of his intellect we have never found inferior to the grandeur of his character or the lustre of his fame. Conspicuous for the charities of private life, and alone doubtful of his public abilities, he has seldom left its sacred retreats without earning renown for himself and glory for his country. But the retreats of private life are no longer sacred. This beloved citizen, this genuine republican; venerable for his age, illustrious for his services, and still more illustrious for his inflexible patriotism, has seen not only his conduct distorted by slander, and his glory tarnished by calumny, but the partner of his bosom traduced and exposed for the sport of the idle and the malice of the infamous. That couch which has been so often forsaken, that others might sleep in safety and peace—that breast that has so often braved danger, that others might not even feel its alarms, which felt a stain on the honor of the country like a stab into its own vitals, has been invaded and cruelly outraged. That some of the members of the present administration of the Federal Government are accountable for the slander and persecution of Gen. Jackson and his wife, is reluctantly, though solemnly, asserted. No moral distinction can be drawn between the act of hiring a man to commit a crime and that of rewarding him after he has committed it; and it is notorious that the prostituted miscreants who invent and circulate these slanders, are the continued objects of ministerial favor, patronage and pay—hired with the money

of the very people whose willing gratitude and just admiration are the real causes of this defamation and rancor. This foul injustice not only aggravates the demerit of its procurers, but should endear to his country the hero who sustains it. As citizens of Tennessee, we feel it our especial duty to denounce it, and to proclaim our proud, our fervent, and our increased attachment to the candidate and the cause of the people.

## REPLY OF MR. BROWN,

*In Support of the Resolutions on a preceding page.*

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Mr. SPEAKER: Until the last remarks fell from the gentleman from Knox, I did not intend to have said anything in support of these resolutions. Even now I do not intend to discuss their merits. They contain, as I conceive, within themselves, sufficient arguments for their adoption. An intimation, however, has been made, that they were introduced to catch the gentleman who last addressed this House. Why should I wish to catch him, or throw any impediments whatever in his way? (Mr. W. here explained and Mr. B. proceeded.) My purposes in introducing these resolutions are infinitely above men; they relate to great and fundamental principles in the administration of this government. When they were introduced on yesterday, they were clearly and distinctly read in hearing of all the members of this House. They have been on your table the *usual* period for examination and reflection: yet gentlemen allege that they have been taken by surprise! Taken by surprise as to the incidents attending the last Presidential election? They have been known to the nation more than three years. Taken by surprise as to the alarming measures of those now in power? They have been discussed over and over again, during two sessions of Congress. Taken by surprise as to the desperate and degrading means now employed to secure another "reign of terror" over this republic? Those means have been used publicly, in the high places of

the earth, and it is strange, indeed, if they have escaped the most superficial observer.

With some degree of emphasis it has been asked, why the Legislature of Tennessee should take up the subject? I answer, because Tennessee, like the other States of the Union, has suffered by the shameful incidents alluded to in these resolutions. I answer further, that the State of Tennessee is under peculiar obligations to enter her solemn protest against the combinations here complained of, because she first presented Gen. JACKSON to the nation as a candidate for the Presidency. It was not of his seeking; it was done without the slightest procurement or interference on his part. Is not Tennessee, then, *at least excusable*, when she complains of the unholy combinations which defeated him; of the vile calumnies by which it is hoped that he can be again defeated? It was, however, stated by the gentleman from Kn<sup>ox</sup>, that one member of the House of Representatives from Kn<sup>ox</sup> County, at the session when General Jackson was first nominated for the Presidency, had been heard to declare, that he was nominated only to make a diversion in favor of Mr. Adams to the prejudice of Mr. Crawford. If it was intended that that was the motive of the particular member alluded to, I have nothing to say. But if it were intended to make even the slightest intimation, that such was the motive of the General Assembly which then nominated General Jackson, I utterly deny it. I was then a member, and have a right to speak thus explicitly of events in which I was an actor. The Legislature of Tennessee, in submitting his name to the nation, was influenced by no motive of hostility either to Mr. Adams or Mr. Crawford, but by a sense of gratitude for his public services, and just admiration of those great and eminent qualifications which it believed fitted him for the office. Besides all this, it seems to me, that it is proper for this General Assembly thus to express its opinions, on another account. The reputation of that distinguished individual is now public property. His fame is identified with the nation. Every public assembly, therefore, can well be justified in defending him against the assaults of defamation and malice. Several gentlemen have attempted to rouse the conscientious scruples of this House, by assuming

the position, that all we do on this floor is under the sanction of an oath, and as the facts alluded to in these resolutions are not personally known or legally proved to them, they cannot vote for them. These gentlemen seem to know everything on one side of this subject, and nothing on the other. They know all the good actions of Mr. Clay—his eloquence in support of the war—his negotiations at Ghent—his timely interference to save the nation from disunion on the Missouri question. But unfortunately, they know nothing of his hostility to Mr. Adams previous to the last election—nothing of his sudden reconciliation—nothing of his traversing the country at seasons of election and making electioneering speeches! In the same way, they know all about Mr. Adams—of his writing against Thomas Paine—of his desertion of his old party in 1807—of his hypocrisy from that period up to his election; all this and more they know of Mr. Adams *when contrasted with Mr. Crawford*. But, alas, when contrasted with General Jackson they pretend to know nothing at all about him! They even talk of sending for witnesses, issuing subpoenas—as though nothing but Court-House evidence will induce them to say any thing against either Clay or Adams. Mr. Speaker, I am not disposed to be quite so technical. The facts alluded to, and collected in these resolutions, compose a part of the history of our country; I am sorry to say, of the most disgraceful part of that history. In acting upon them I do not consider myself as swearing to their correctness; but, sir, I do consider myself as swearing *to my belief* of their correctness, and to the conclusions drawn from them. In this spirit and with this understanding of my obligation, I introduced them, and still give them my cordial support. But, sir, I did not then, nor do I now, expect some others to give their sanction. To have done so, would have argued the most profound ignorance of the political occurrences of the times. I will not, however, arraign the motives of those who may differ from me, but leave them to themselves, their country and their God. Whilst pursuing this course towards them, they ought to have shown equal magnanimity and charity to us. Why charge us with man-idolatry? Why charge us with imitating the Hartford Convention? Is it worse in us to idolize Jackson now, than for them once to have

idolized Crawford, and now to idolize Clay or Adams? As to the Hartford Convention, what resemblance can be found in the proceedings of this House to the treasonable deliberations of that assembly? Is it treasonable, in their opinion, to denounce the measures of this mad and profligate administration? to protest against the alarming usurpations of the second Adams, as the old Republicans did against those of the first? Surely that eye must be evil that can discover the slightest resemblance.

Another whimsical suggestion was made by the gentleman from Knox—that in adopting these resolutions, we should be taking sides with Great Britain in the Colonial trade question; and that they would seriously embarrass Mr. Gallatin in his negotiations at St. James'. This I consider a very foreign, a very far-fetched notion. Is there a word in those resolutions about the Colonial trade? It is true, that they contain a condemnation of many of the measures of the administration. But if this be taking sides with England, if this be embarrassing to Mr. Gallatin, that mischief has been done long ago. The debates in Congress, the political essays of the day, the numerous and popular decisions made all over the nation, long ago told to England and to the world, to Mr. Gallatin and every Minister we have had abroad, that Mr. Adams' measures were obnoxious to the American people. The same gentleman calls for proof of the dangerous tendency of the Panama mission; says that he was not in the country when that subject was discussed in Congress, and therefore would like to hear something about it on this floor. He even demands the treaty by which these "intrusive alliances" have been formed! Mr. Speaker, those resolutions only speak of intended or contemplated alliances; for who did not know that no treaty had been made? Who did not know that our Ministers and their Secretary, after groping about in the Southern Seas, spending for nought thirty or forty thousand dollars of the people's money, returned in disgrace to the United States, and reported that *they could not even find the contemplated Congress*. It is not now attempted to vindicate that mission on any of the grounds assumed by the President in either of his messages, or by any of his friends on the floor of Congress,

but an effort has been made by the gentleman from Knox, to redeem the President and his Secretary from the contempt and ridicule to which it has exposed them, by conjectural surmises as to the designs of Bolivar.

He supposed the Panama Congress to have been gotten up by that quandam Washington of the South, to aid him in an ambitious project of reducing the South American States to his imperial sceptre. That Mr. Adams and Mr. Clay, apprised by *secret agents* of this intention, instituted this mission, to warn those States of impending danger. Was anything like this suggested by Mr. Adams to the Senate, when sitting with closed doors, in profound secrecy and confidence? No, sir, nothing like it. I therefore consider it only as an after-thought—the last hopeless apology for those in power—which will no more justify the measure, than the purposes at first avowed. If that Congress was to have been used as the mere instrument of Bolivar's elevation to the imperial crown, what business had we to be represented there? If our ministers opposed such designs, we should of course be involved in the feuds and controversies of the respective parties, and if Bolivar succeeded, he would then be found at the head of all the confederated States of South America, a bitter and implacable enemy to the United States. Will the folly of this mission be less, by alleging that it never was intended for our ministers to unite in their deliberations, but only to act as counsellors or advisers, and, in some sort, as spies on their proceedings? Thirty or forty thousand dollars are then to be thrown away, only to give warning of designs, no doubt better understood by them than by our own government! An imposing mission, fitted out in full national splendor, only to supply two idle danglers, or lobby members, to Bolivar's Congress!

Both of the gentlemen who oppose these resolutions, call themselves Republicans of the old Jefferson school. I admire their creed. It is drawn from a pure and unadulterated fountain of political knowledge, and I deny that any one principle taught in that school, is opposed to these resolutions. What are some of the leading measures of the Jeffersonian creed? "That the people is the source of all power and the fountain of all honor." That they have a right to exact obedience to their

will from all their public functionaries. That a government instituted for their "peace, safety, and happiness;" should be administered in *simplicity, economy and purity*. Are not these principles regarded and inculcated in these resolutions? The first one proposes to give the election of President directly and conclusively to the people: The second condemns measures, which set their wishes at open defiance, and prostrate some of their dearest rights and privileges: The third proposes as a remedy for these evils, the election of an individual, distinguished for his qualifications, his public services, and, above all, for his devoted attachment to the constitutional and inherent rights of the people. If gentlemen were really what they profess to be, it seems to me, that they would not be found in the opposition to this measure. The great patriarch of republicanism sanctioned the principles when alive, and seemed to call, with a solemn voice, almost from the tomb, on his followers, to rally around the man "who had filled the measure of his country's honor." The Republican party must unite, if it is ever restored to power. They must unite like a band of brothers, as in the dark period of '98, or the sceptre has departed from Judah forever. One gentleman was unkind enough, tauntingly to remind us, that we had been fired upon and scattered like birds. I know it. The nation knows and feels it. Why did he not tell you, that it was that very *Kentucky sportsman*, mentioned in these resolutions, who had fired upon and scattered the republican party? Why will not that gentleman, seeing that "he is one of us," give his assistance in collecting the scattered forces of the republican phalanx, and retrieving the misfortune which the hypocrisy of the President in 1807, and the desertion of his Secretary in 1824, has brought on our party? This is the great object of the friends of those resolutions. They wish to make an appeal to the great body of the people, to rise up and vindicate their own rights; to teach the self-willed politicians of the day, that they shall not set at naught their instructions, with impunity. In short, to fight over, in the persons of Jackson and the younger Adams, the same battle that was fought between the elder Adams and Mr. Jefferson. The struggle is obliged to come on, and none should either expect or desire to be neutrals in it. It is not enough for

gentlemen to cry out, we used to be for Crawford! They must present stronger evidence than this that they are the disciples of Jefferson. *Whom are they for now?* The question reminds me of a remark submitted by the gentleman from Bedford which I feel bound to notice: That many men in this State, not having merit of their own to rise upon, make ardent professions of attachment to Jackson, which they do not feel. This is no doubt true of some of the friends not only of Jackson, but of Clay and Adams. But, sir, is this worse than for men, whilst canvassing before the people, to pretend to be for Jackson, and thereby get into office, and then turn round and do him all the injury in their power? Or in other words, is it worse than to sail under the Jackson flag in the presence of the people, and so soon as they get out of their sight, display the broad pendant of Adams and Clay? The gentleman disclaimed "all allusions" to me in his remarks. I assure him *with equal sincerity*, that I make the same disclaimer as to him.

Allow me now, sir, in conclusion, to observe that I did not rise to discuss the merits of these resolutions, nor the accompanying remarks. They are left to vindicate themselves; but in the course of the debate, some positions were assumed and suggestions made, which I felt it my duty thus briefly to notice.

## AN ADDRESS

*Of the Giles County Van Buren Committees, to the Voters of Tennessee.*

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**FELLOW-CITIZENS:** In pursuance of our appointment, and in discharge of the duties it enjoins, the undersigned beg leave to address you on the absorbing topic of the Presidential election. We are fully apprised of the great solicitude which the people of Tennessee now feel in that event. We remember well, for we participated with you in the feeling, how warmly you exulted on two former occasions, in the election of your most illustrious citizen to that high office. We remember, too, how eagerly the citizens of Tennessee caught at the very first suggestion, that they might furnish a successor in the person of Judge White, and know well how reluctantly they will part with the expectation of being able to do so, whilst a single ray of hope is left to brighten and illumine the prospect—all this was perfectly natural, and might well be expected of a generous and confiding people, grateful for long continued and faithful public services.

Experience has, however, long since taught us, that our first impressions are not always the best ones; and that in a government like ours, it is often dangerous to follow the suggestions of local partialities. When, in 1824, the ancient Commonwealth of Virginia, with incautious attachment to her *Southern* favorite, cast her vote against Gen. Jackson, little did she think of the years of bitterness and sorrow she would have

to pass through, in order to retrieve the error. When, in the same election, the State of Kentucky bestowed her suffrage on her own favorite and talented citizen, when there was no rational hope of his success, little did she suspect that she was bringing shame and defeat on the great republican cause, whose principles she had always sustained with such gallant devotion! Believing, as we do, that if Tennessee errs in the coming election, it will be on the same ground; and being solemnly convinced that such error must be followed by the same bitter consequences, we feel disposed to appeal to our fellow-citizens to review their first impressions, and to examine, with care, the various topics fairly involved in the approaching election. We propose to discuss those topics on the present occasion—temperately, but freely—to assume no fact which we do not believe to be true, and to draw no conclusions not fairly warranted by those facts. We propose to reason, not to abuse; to argue, not to upbraid. We should despise to wear the laurels of *invective*, when temperate and fair argument could not achieve the victory. In Tennessee, at the present moment, there is peculiar difficulty in observing the proper *courtesies* of debate. In our public addresses, in our newspaper communications, and even in our ordinary conversational arguments, there is evidently wanting that mutual concession and forbearance, which leave the social relations of life uninjured, however vehement the debate, or however wide the difference of opinion. This defect does not arise from any irritability of temper, so much as from the great unanimity of sentiment that has heretofore prevailed amongst us, in relation to Presidential elections. All, or nearly all, of us have been heretofore in favor of our present Chief Magistrate—of the man and his measures. Until now, we have undergone no discipline in the school of *controversy*, where, if we prove truant to its stern and rigid rules, we can expect nothing but friendships severed, and the kindest associations of life sundered forever.

There are but two candidates who seem to occupy much of the attention of the people of Tennessee in the present election, and both claim to be members of the Republican party. The friends of Mr. Van Buren claim for him greater acceptability, and the earliest designation by that party as its candi-

date, and deprecate a division in its ranks as dangerous to its success. The friends of Judge White object to the *mode* of his designation, and insist that all caucus nominations, being unauthorized by the laws of the land, or by the Constitution, are inconsistent with the freedom of elections, and dangerous to the liberties of the country. This we believe to be a fair statement of the *original* issue between the parties, whatever form more *recent* events may have given to the controversy. It will be a matter of surprise to the future historian, to find how much of this controversy was made to turn on the *mode*, or *manner*, by which their respective claims have been brought before the public by their friends. *The right man* ought always to be elected, however *wrong* his nomination. No imprudence of himself or friends, either in the *time* or *manner* of bringing him forward, ought ever to defeat the election of a candidate whose claims were superior to those of his competitor. But as to the *mode* of nomination, but little difference is perceivable. Both were nominated by a caucus; Judge White by a *legislative* caucus, Mr. Van Buren by a *national* one. Both were equally self-constituted, and both therefore equally irresponsible. The members of the Alabama Legislature did not pretend to represent their constituents in their conditional nomination of Judge White; and if they had, it would have been notorious to the whole world, that they were never delegated for that purpose. They could only presume to announce their *own opinions*, and what they *supposed* the opinions of the people of Alabama to be; and, therefore, their nomination did furnish *some evidence* of public sentiment in Alabama, in relation to the Presidency. So would the declaration of the four or five hundred persons, whether rendered as delegates or as individuals, who assembled at Baltimore, furnish like presumption of the state of public sentiment in the United States. Neither could nor was intended to be final nor binding on the people; both were intended only to be *introductory and persuasive*; neither was valid, unless ultimately confirmed by the people.

Whilst Judge White is compelled to date *his* designation, as a candidate, from the period of his Alabama nomination, all candid and well informed persons must admit that Mr. Van

Buren had been designated as the candidate intended to be run by the Republican party, long before the Baltimore nomination. The opposition saw it whilst he was a member of Gen. Jackson's cabinet. They saw it when they rejected his nomination as minister to England. They saw it in the overwhelming vote by which the party elected him to the second office of the government. It was so declared in the public journals of the day, and was perceivable from the debates on the floor of Congress. No one man in America was taken by surprise, for all men anticipated that he would be run by the party. On the other hand, no one can pretend that there was the slightest *anticipation*, either by friends or enemies, that Judge White would be brought forward.

The proceedings by Alabama were like "a clap of thunder in a clear sky," with no previous glare of the lightning to announce its approach. As to *priority* of designation, it is, therefore, fair to say, Mr. Van Buren has the advantage of Judge White. As to the *mode of presentation*, if Judge White rely on primary assemblies of the people, Mr. Van Buren, before and since his nomination at Baltimore, can outnumber him in that way. If he rely on legislative nominations, Mr. Van Buren has an equal, if not a greater number in his favor. If he rely on the caucus of the "immortal eleven," Mr. Van Buren can cast off all the objectionable votes given in the Baltimore Convention, and still hold up that nomination, all *be-ruckered*, as it may be, as an hundred fold better than that of Bell, Crockett & Co. We believe the plain truth of this part of the subject is, that whilst *some common enemy* of the party was expected to take the field against Mr. Van Buren, the whole party, to a man, Judge White and all his friends, were resolved to stand undivided and unflinching in his favor. Then no one of the Republican party denied to Mr. Van Buren the possession of abilities of a very high order. Who, then, complained of his *tergiversations* and *inconsistencies* as a politician? Who branded him then, with the odious epithet of *Abolitionist*, although every one knew what his course had been on the Missouri question? Who of all his associates in politics, (Judge White amongst the rest,) did not acknowledge with gratitude, the unwavering support given by him and his friends, to Gen. Jackson's adminis-

tration—not in the days of sunshine and prosperity, but in the darkest and most gloomy period of its existence. In that celebrated *panic session*, when all the elements of opposition, lashed into fury by three of the most eloquent and talented men in America, if not in the world, seemed ready to sweep away Jackson and the Republican party, of which he was the head and representative. During that session, in our opinion the most critical ever witnessed in the history of this country, all of us must remember how firm and undaunted Mr. Van Buren stood by the side of the President, "resolved to sink or swim, to live or die," with the man who had filled the measure of his country's honor. It was during that session when Virginia, that Old Dominion, the mother of so many Presidents, deluded for a moment, turned coldly away from him—Pennsylvania, too, that key-stone of the arch—the second if not the first to bring him forward for the Presidency, terrified by the threats of the United States Bank, began to tremble and give him up. If at that critical moment, the Empire State had not stood by him and sustained him, with a constancy and firmness that astonished and delighted every republican bosom at the time, all must have been lost—Jackson and his party and his measures must all have perished in one common grave. Now, all this constancy and devotion presented Mr. Van Buren as a conspicuous and shining object before the eyes of the Jackson party, no respectable portion of which ever dreamed of not supporting him against an *opposition* candidate.

Such was the unanimity of the Republican party in his favor, that the distinguished leaders of the opposition, whose claims had always been looked to for the same office, stood for a long time baffled and discomfitted in their hopes of a successful competition. In this state of irresolution among the opposition, it began to be suspected by some, that probably no candidate at all would be brought out by them, and in that event, there was no necessity for all this unanimity in favor of Mr. Van Buren. Here was the starting point of all Judge White's aspirations. It was here, on the *express supposition that no opposition candidate was likely to be presented*, that the friends of Judge White began to suggest that he was well qualified for the office of Chief Magistrate. The suggestion

was followed up by some popular meetings in different counties of this State, and finally ended in the conditional nomination by the Alabama Legislature, and the annunciation by the eleven members of Congress, that the Judge would be a candidate. Now, we appeal to the recollection of every one, whether in all those popular assemblies it was not well understood, that his pretensions were urged mainly on the improbability of an opposition candidate. The face of the Alabama proceedings shows that fact in that State, and we appeal to the documents published by the eleven members of Congress to show, that these very members themselves proceeded in the same idea, and themselves anticipated the probability of a mistake on that point, and declare, that in such an event they owe it to consistency and to the safety of the party with which they had always acted, not to *persist* in urging Judge White's pretensions. From the first moment of his being mentioned as a candidate, many of the wise and experienced members of the Republican party protested against it as hazardous and impolitic; they depicted the danger of disunion, and insisted that the fact of having started two candidates would invite an *opposition* candidate to the field. Such, however, were the confident predictions to the contrary in Tennessee, that Judge White was warmly taken up and pressed through many public meetings with almost undivided enthusiasm. In the meantime the opposition, with a vigilance that never slumbers, and a sagacity that never fails to improve every opportunity, lay back, concealing their own purposes, whilst the whole band of them, Nullifiers, Bankmen, Federalists and all, united in chanting the praises of Judge White, until his friends were truly astonished at his sudden *apparent* strength and popularity. Not looking beyond the surface and appearance of things, nor suspecting any sinister designs, Judge White, in an unlucky moment—unlucky for his own fame and unlucky for the interest and safety of the Republican party—gave his assent, and surrendered his name as a candidate for the Presidency.

The sagacious of all parties knew well how to account for this sudden inflation of popularity, whilst others, either less observant or blinded by local or personal attachments, really entertained the opinion, from the unexpected developments in

his favor, that he was highly acceptable to the Republican party, and even more so than Mr. Van Buren. Until now no party caucus or conventional designation had been concluded on in favor of Mr. Van Buren. Until now one continued and unbroken line of circumstances had marked *him* out as the favored and intended candidate of the party. But when all this began to be questioned, and some of the party, particularly in Tennessee, began to claim for Judge White an equal, if not a greater acceptability for the party, then, and not till then, was it deemed generally to be either necessary or proper, (though some might have proposed it before,) to hold any party consultation on the subject. It was about the time to which we allude, that General Jackson thought proper to advise such a consultation. Of that advice—of the time and manner of giving it—and of the foul and crying injustice which has been attempted to be inflicted on him for having given it, we intend hereafter to speak. We advert to it now, only to give date to the historical narrative, which we are attempting to furnish. Against this party consultation, the friends of Judge White protested with perpetual and vehement outcry: An adequate motive for doing so, may be found in the fact, that in a consultation to determine which of two party candidates should be run, none but the sincere and known friends of the party would be admitted. Now, it would be easy to foresee what the fate of Judge White's pretensions would be in any consultation in which the voice of the Nullifiers, Bankmen, and Federalists was not to be heard. We venture the assertion, *that, exclude the enemies of this administration* from having a voice in the matter, and Judge White cannot now and never could have gotten a nomination by a majority of its friends in any State of the Union—Tennessee only excepted. That he has many valuable and intelligent supporters here and elsewhere, that have always and still adhere to the administration, is most true, but that they constitute anything like a creditable approximation toward a majority in any State in the Union, with the exception aforesaid, is utterly denied. Hence the evident policy of rejecting all general consultations with the party—of going into no arrangement which did not let in and receive such of his *new friends* as did not belong to the ranks of the adminis-

tration. This policy was adopted, has been persisted in, and will never be departed from by Judge White and his friends. He and they know that, if left to the determination of the Jackson or Republican party, to determine either by State nominations or by a National Convention, which shall be run as their candidate, Judge White has not now, nor ever had, the least chance of being selected for the purpose. It is, therefore, *evident* that Judge White, though he may be in his own person a Republican, and we have always so esteemed him, yet we boldly aver that he is not the candidate of the Republican party, but is, on the contrary, running directly *against the wishes* of that party, and, of course, is relying on the aid of its enemies for his election. We have always admitted that Tennessee was to be excepted out of this view of the subject. She from the first, and most probably up to the present moment, is in favor of Judge White, and yet Tennessee is a Republican State. To Judge White she is and long has been greatly attached. To the Republican party, too, she has been devoted ever since she had an existence. The principles of that party, as advocated by Jefferson, was the glory of her youth, and the same principles as carried out and practiced by Jackson, have become the very life-blood of her existence! We speak of a State in which we have long resided, and of a people whom we have long known, when we say that, although Tennessee may linger awhile in reluctant surrender of one of her favorite citizens, yet when the final struggle shall come on, she will let go her hold upon *men*, and cling to her principles, with a death grasp that will make her and them one and indivisible forever! True, a few months may disclose the refutation of a *now* pleasing prophecy; still we cannot give up the hope, that when Tennessee shall look out beyond her borders—when she shall cast her eyes over the combined armies of the opposition—when she shall see in that army the legions of Nullification, Federalism, the mercenary Hessians of the Bank, and the resuscitated forces of the American System, all in close but unnatural array against the Republican party, she will not, she cannot, draw the sword nor lift the battle-axe in such unholy combination against herself, her principles, and her honor! Those desperate leaders, who would plant the White banner

beside the black cockade of Federalism, and who would mingle its emblematic folds with the single starred colors of Nullification, will then find that the people of Tennessee cannot be induced to follow that standard into such strange and abominable associations.

If it be inquired, what are those principles to which Tennessee is likely to adhere with so much unyielding tenacity, we answer that they are the principles of the Republican party. Those principles which have given it its distinctive character for nearly forty years, through a succession of administrations from 1801, unbroken, save only in that of the younger Adams, for that whole period; principles which the wisest and best of our statesmen have ever deemed of the highest importance to the welfare and prosperity of the country. To enumerate them here, would imply too great a want of information on the part of those whom we address, and to attempt to vindicate their correctness, would seem like superadding to the labors of Madison and Jefferson, and a long list of other patriots, whose names are embalmed in the most cherished remembrance of their countrymen. Granting, however, the importance and correctness of these principles, it is sometimes asked, how are they endangered in the present election? We answer, by the *division* of the party which always sustained them. Since the great civil revolution of 1801, that party has never been beaten but once, and that was effected only by division. In 1824, the Republican party presented three competing candidates for the Presidency, in the persons of Mr. Crawford, Mr. Clay, and General Jackson, whilst the Federal party presented but one, in the person of Mr. Adams. True, Mr. Adams was regarded at the time, by many, as a Republican, also, but the entire unanimity with which the whole Federal party was supporting him, soon dissipated all ideas of that kind, and the subsequent events of his administration clearly showed, that he was emphatically the candidate of the Federal party. No concert of action—no harmony of feeling—no adjustment of pretensions took place between the three Republican candidates, and the consequence was, that the Federal one was elected. The Republicans felt the shock from one end of the continent to the other. Virginia deplored that momentary infatuation, that

made her cling to her Southern favorite, long after she had despaired of his success. Other States deeply lamented the same error, and instantly resolved that, as *division* had lost the sceptre, so harmony and concert of action should regain it. Accordingly, in the next election, the Republican party *concentrated* its whole strength upon General Jackson, and drove the flying and broken columns of Federalism before it in every direction. Now, when Mr. Van Buren and Judge White were first proclaimed as candidates, both claiming to be Republicans, was there no propriety in warning the party not to be divided? Was there nothing in the experience of the past which might induce the wise and prudent to advise a consultation amongst friends, in order to bring about an adjustment of their pretensions? The ranks of the Federal party, always strong in talents of the highest order, had lately been reinforced by the Nullifiers, whose leader possessed more lofty genius and consummate tact than any other man probably in America, and whose subalterns, taking them rank and file, constituted the very flower and chivalry of southern talent. Add to these the acquisition of Mr. Clay, the first orator of the age, with a strong influence of western friends, who had long paid homage to his eloquence, and you present the Federal party, at the close of the Panic session, formidable in numbers, powerful in talent, and, through the United States Bank, inexhaustible in resources. In the face of an enemy so huge and vast, what lover of his country can lay his hand on his heart and conscientiously blame General Jackson for warning his countrymen against the danger of disunion in the Republican party? He was the head of that party—he was its representative, and, like a faithful sentinel, gave the alarm! For this, he has been denounced by a vile herd of editors as a Dictator and Tyrant, and by his own representative in Congress as an Elective Monarch!

Let us now inquire whether all these apprehensions of danger from *division* have not been confirmed by subsequent events. We affirm, that the *number*, the position of the candidates, and the avowed and open and frequent declarations of their friends, place the Republican party, *even now*, in imminent hazard and danger. Should Judge White succeed in carrying

off any respectable portion of the party, and that portion should be disposed to throw itself into the *common stock* with Mr. Webster and General Harrison, the result becomes intensely dangerous. The two last have always stood ready for amalgamation at any moment. Identity of Federal sentiments produces a mutual sympathy, which would render such amalgamation both easy and natural. As to Judge White, it is now clearly proved by the *permitted* amalgamation of the Harrison and White ticket in Virginia, that however coyly he would have submitted to the caresses of the opposition at first, he is now considered by his friends as ready to yield himself up, soul and body, to the prostituted embraces of all sorts of associations, in order to defeat the election of Mr. Van Buren. No one of the candidates, Mr. Webster, General Harrison, or Judge White, ever expected, or now expects, to be elected by the people. Their only reliance is on the House of Representatives. If Judge White were to receive every vote, in every State in the Union where he has a ticket running, he could not be elected. It is evident, therefore, and his friends do not deny it, that he is running, not for an election by the people, but by the House. Now, it has long been a favorite principle of the Republican party, never to let such an election go before Congress. The contest between Mr. Jefferson and Burr, and the later defeat of Gen. Jackson before that body, had clearly shown the danger of sending it there. Not the least doubt can exist, that if Judge White were not now a candidate, Mr. Van Buren would be elected by the College of Electors. Here, then, is one of the bitter fruits of this division of the party. It is thereby compelled to give up an election by the People, and, *forced by Judge White*, to receive a President, whoever he may be, from the foul and filthy combinations of the House of Representatives. The Republican party, at this very moment, is deeply regretting the sacrifice of this very principle in her creed, and it adds not a little to her affliction, that the sacrifice is induced by one of her own formerly cherished and honored members! Although even there she expects that Mr. Van Buren will probably be elected, yet she feels confident that the country cannot accept him from the hands of the House, with the same confident assurance of untarnished purity as if he had never gone there.

We desire the people of Tennessee to pause and look this one fact steadily in the face, that, if it were not for the division made by Judge White, Mr. Van Buren would certainly be elected by the people over Gen. Harrison and Mr. Webster; that, in consequence of this division, all the attempts at an election next fall, will probably turn out a mere idle formality, an empty show—bringing no results except to show the people how impotent they are, and how easily Judge White, with the co-operation of Mr. Webster and Gen. Harrison, has divested them of their rights, and transferred them to the trained and hackneyed politicians of Congress. All this is now known to and admitted by Judge White and his friends, and yet he shows no disposition to heal the breach he has made, by withdrawing from the contest as Judge M'Lead did, and thereby restore to the people their just authority and influence in the election. *But if Judge White will persist* in this co-operation with the two Federal candidates, to throw the election into the House of Representatives, where no sound-hearted Democrat ever desired to see it, it becomes you solemnly to consider whether you will continue to adhere to him under such circumstances. In sustaining him thus far, you have done all that State pride or personal attachment required at your hands. To go for him and with him further, is to sacrifice one of the oldest and best established principles of the Republican party. Those who called him out, did not require or expect you to go further. They themselves have declared that he ought to be dropped, whenever the safety of the party, or its principles, would be endangered by continuing to run him. Under this pledge and assurance given by “the eleven,” every man in the State has a right now, before further mischief is done, to require and demand it of them to withdraw Judge White from this combination with the Federal candidates. Instead, however, of withdrawing him, and so redeeming their solemn pledges, the most distinguished one of them is now traversing the State, in order to convince you that it is well enough for this party to be divided—that it has become corrupt—that its head and leader has made this Republic an Elective Monarchy, and it is, therefore, high time to effect its overthrow and destruction!

This bold charge of corruption against the administration of

Andrew Jackson, has not even the merit of *novelty* to sustain it. It is the old charge made by *David Crockett* at the close of nearly every session of Congress in which he served, as an excuse for having voted with and sustained the opposition. But, in our opinion, it has as little *truth* as novelty. General Jackson has changed! Why, then, is it that every Bank man, and every Federalist, and every Nullifier, and every American System man in America, is still against him as much as ever? Can it be possible that Andrew Jackson can have become false to his party, false to his principles, and false to his country, and yet not have conciliated a single one of the various parties and interests leagued against him? No, fellow-citizens, the *charge* is false, and is only made to an insulted community, in order to cover the disgrace of their own defection.

We know the earnestness with which these *modern seceders* from the Republican ranks, insist on the total obliteration of all party distinction; their arguments on this point are based on the insulting idea, that there was nothing important or sincere in the mighty struggle which has been going on for nearly half a century between the two great political parties of this country. Nearly every old Federal doctrine has been revived, and others, more modern, but not less dangerous, have been contended for, during the last seven years of Jackson's administration. But the people of Tennessee have, however, united with their Republican brethren of other States, in sustaining the venerable representative of the Republican party in his noble resistance against all these abominable heresies. How is it then, that at the close of his administration, when all these antagonist principles stand out in open array, proudly boasting that they will prevail and triumph against his successor, how is it we ask, that these "no party" leaders can call upon you, at such a crisis, to abolish all party distinctions, to dismiss all your forces, to disband the veteran legions of Democracy and tamely surrender yourselves, without even terms of capitulation, into the hands of your enemies! We warn you not to confide in such advisers. They proclaim "peace among parties," when they know there can be no honorable peace. They exhort you to disband and unarm, only that you may be an easy victim to Federal domination and misrule. They give

you insidious counsel, that would betray you into the hands of an enemy, who would delight to carry you in chains to the foot of the Bank, or to lead you, in triumphant mockery, through the camps of Nullification and Federalism, the degraded captives of your own credulity and folly. These enemies, against whose machinations we warn you, know well that General Jackson has not changed, and that Martin Van Buren stands bound, by repeated and public pledges, to carry out the measures and principles of his administration. These pledges they know *he will* redeem, and in that redemption they see their own discomfiture and ruin. On the other hand, they have seen repeated *symptoms* not to say *proofs* of Judge White's defection from Gen. Jackson and his administration, which encourage them in the belief, that in him they would not find so stern and inflexible an opponent as in Mr. Van Buren. Nay, more, the recent course of Judge White has excited high expectations, that *from the obligations* they may lay him under by their support, and from the *hated* now excited between him and Gen. Jackson, they may presently claim him as *common property* of all their different factions—obedient to their will and subject to their direction. We would not have you to understand that we believe all these degraded expectations would ever be realized—for although we are opposed to his election, we cannot believe that he would ever become such a puppet in the hands of any set of wire-workers whatsoever. Still we do believe, that when he shall know and feel that he is indebted to these factions for his elevation, and without their continued aid he could not sustain himself in his new office, *that the fear of disgrace*, added to a *sense of obligation*, would exert a most unhappy influence over him. To suppose otherwise, is at open war with the known principles of human nature, and would exalt Judge White too high above the ordinary standard of human excellence.

We now wish to call your attention to the President's dictation. This is the watch-word of the White party in Tennessee. It is found in every conversation, and in every written essay, on the Presidential election. It is now used by the managers of the Tennessee press, to rouse the prejudices of a brave and jealous people, ever ready to resent the slightest encroachments

on their rights and privileges. Propose to such a people to appoint over them a Roman *Dictator*, clothed with absolute authority, and you rouse into action every indignant feeling of their nature. Or tell such a people, that some great man of the nation has issued his *commands* or has sent forth his *orders* exacting obedience to his mandates, and you fill them at once with the deepest indignation. All this is well known to the managers aforesaid, and hence it is, that the cry of dictation has been raised, and vociferated from one end of the State to the other, against our heretofore respected and venerated Chief Magistrate. These adroit managers hope to excite the people to such a height of jealous indignation, as to draw off their attention from the investigation of the *truth* of the *charges* which they have preferred against the President, and thus, amidst a storm of calumny and detraction, silence the admonitions of one of the best and purest patriots that ever lived. If the people of Tennessee are jealous of encroachments on their rights, they are equally intelligent to detect the shallow artifices by which it is attempted to divert the noble and honorable frailties of their nature to the subserviency of party purposes.

We invite them, therefore, to suspend any momentary indignation into which the frequency and boldness of these charges may have thrown them, and temperately inquire whether *it be true*, that General Jackson *is now* attempting, or has *ever* attempted, to play the dictator over you. "To dictate," means to declare or deliver to another *with authority*. "Dictation" is the act of so declaring and delivering *with authority*, and is very nearly the same in its import as the word *command*. Advice, counsel, admonition, are all totally distinct from dictation. The *advice* of a friend we may disapprove, the *counsel* of a parent we may reject, the admonition of the wise and great we may disregard; still we never speak of these as *dictators*, or as persons who intend or desire to *enforce obedience* to their suggestions. We continue to honor and respect them for their good intentions and kind feelings, but never look upon them as enemies on whom we should heap epithets of reproach and condemnation.

Now, in the light of these definitions, we invite the people

of Tennessee to go back in regular review to the various acts charged against Gen. Jackson as amounting to dictation. The first allegation against him, is the celebrated letter to the Rev. Mr. James Gwin. This letter was written about the time when the greatest apprehensions existed of danger to the Republican cause by division in its ranks. The wise and experienced and virtuous of the Republican party deprecated the idea of the Republicans starting two candidates for the Presidency. They greatly feared that, by doing so, the sceptre would depart from their hands and be given over to the common enemies of their principles, the Nullifiers, Bankmen and Federalists. Up to this period, General Jackson had never interfered. He had never spoken one solitary word against Judge White, as far as the public was apprised. But one, if not more, of the Nashville papers commenced a series of publications, in which they attempted to prove that Gen. Jackson was in favor of Judge White; that from their early associations and agreement of opinions, he must of necessity be so. After urging this view of the subject, they supposed the contrary, and then argued, in a very reprehensible style, that the people of Tennessee would never submit to the *dictation* of General Jackson. Let it be remembered, that this charge of dictation was made before General Jackson had said one single word on the subject, and was predicated on the bare *supposition* that he *might* not be in favor of Judge White. So soon as these articles met the eye of the President, he was satisfied that he ought to interpose and prevent the impression that he was in favor of either of the candidates, or rather, that he was not more in favor of one than the other. That he ought to interpose to prevent the impression that *he* was in favor of dividing the party which had so gallantly supported him, by bringing forward two candidates, to the evident danger of defeating both of them. With this view he wrote the Gwin letter. Now, the question is, was that a letter of dictation? We deny that it was; the friends of Judge White assert that it was. This, then, is the issue. Let it be determined by the letter itself. We suppose it to be in the recollection of the reader, and challenge the pointing out of a single clause that looks like dictation. He complains of the course pursued by those papers,

and denies that they have any authority for saying that he was for or against either of them. It then avows, that he is in favor of *that one*, whoever it might be, who could concentrate on himself the greatest strength of the Republican party; and for the purpose of ascertaining who that was, he recommended a consultation through the instrumentality of a Convention, whose representatives should come, in the much abused and often ridiculed expression, "fresh from the people." We write from recollection of the contents of that letter, and aver that no part or clause of it can be made out stronger than the mere *advice* and *counsel* of General Jackson to his political friends, and not a *dictation* of his will and pleasure, to deprive them of their just rights of voting as they pleased. Gen. Jackson, as the head and representative of the Republican party, may well be supposed to entertain the liveliest solicitude for its success and preservation. Believing that he saw danger to it by division, and that the course pursued by these Nashville newspapers was making him instrumental in creating and increasing that danger, he wrote the letter of *counsel*, or *advice* to one of his old neighbors and fellow-soldiers in his wars. Now, for doing this he has been denounced from that day to this, by all the presses and warm advocates of Judge White, as a *dictator*! Is it *dictation* to give one's advice? If so, our friends, our parents, who warn us against impending dangers, are our enemies, and, instead of our thanks, ought to receive our maledictions. True, General Jackson might be accused of giving *bad advice*, or even of being *intrusive* in giving it at all, but that is not the question. It is not whether he gave good or bad advice, or gave it with good or bad manners, but whether Gen. Jackson has *dictated* to the people of Tennessee—whether he committed encroachments on the rights and privileges of the people when they are approaching the ballot-box? We might refer to the history of his whole life for a refutation of such a charge. He who has devoted himself so long to the service of his country, who has so often risked his life and bared his bosom in defence of the peoples' rights, could hardly desire now to turn round, and, with unhallowed violence, take them away! It is impossible that it can be so. General Jackson, whatever may be his anxiety about the next election, we feel confident, would not

deprive the poorest and the most ragged man in the State, of the right of voting as he pleased, to secure the election of any man on earth! We still return to the Gwin letter. We hold the calumniators who preferred the charge of dictation, and the designing who have so often repeated it, to that very document, and demand to know why they have attempted to excite the people of Tennessee to distrust and disaffection against the best friend they ever had, on such false and baseless a foundation. Why have they tortured his correspondence into so strange and unnatural a meaning? Why have they, when he was far distant, busily engaged in administering the government, in precise accordance with the wishes of the people, taken the advantage of him, and loaded him with epithets which he never deserved, and perverted a letter, written in the spirit of *paternal counsel*, into one of *tyrannical diction*. When the excitement of this election is over, the people of Tennessee, ever true to him who was ever true to them, will turn and demand a terrible settlement of accounts with all those who have thus traduced *him* and endeavored to impose upon *them*.

We will now consider the Gwin letter as one of advice and counsel, and see if the President be justly blameable for having written it.

In the first place, these newspaper editors at Nashville, *had no right* to appropriate Gen. Jackson's name to Judge White, or any other candidate. They *had no right* to make the public believe that Gen. Jackson was in favor of running *two* candidates on the Republican ticket. Such an impression was false in fact, and placed Gen. Jackson in a very inconsistent attitude before the nation. These editors knew this, but supposed that as Gen. Jackson was a great way off, and was filling the highest office of the government, that either he would not see them, or seeing, would not reply to their publications, ventured to make the false impression in Tennessee, that Gen. Jackson was in favor of running Judge White. It was, in short, an insolent attempt to dictate to Gen. Jackson, much stronger than any he has made to dictate to the people of Tennessee. Gen. Jackson had, therefore, a clear right to *deny* the assertions and false statements, as he regarded them, of these editors. When doing so, it was very natural and proper for him to state for

*himself* what his true position on the subject really was. What was that position? That he was in favor of whatever candidate was most acceptable to the party which had supported him and his measures. If that one proved to be Hugh L. White, then he was for him; if it proved to be Mr. Van Buren, then he was for him; his great object being, not to divide and thereby endanger the Republican cause, for which he had been toiling and laboring for so many years.

But in writing that letter, he is said to have departed from the example of Mr. Jefferson. Mr. Jefferson has set us no example *under similar circumstances*. When Mr. Madison was about to be brought forward, Mr. Monroe was also spoken of—they were both equally his neighbors and personal friends—they were both undoubted Republicans. There could, therefore, be no great principles involved—both would administer the government on principles perfectly satisfactory to Mr. Jefferson—hence he might well determine to preserve a strict neutrality. But who can believe that if Mr. Jefferson had seen the Republican cause in imminent danger; who can believe that if he had heard the war-dogs of Federalism howling around the still and quiet camps of the Republicans, that he would not instantly have raised the alarm? Every village and homestead in the nation would have heard his appeal, and, like Jackson, he would have exhorted his countrymen to union and harmony of action!

Another act has been complained of as an unwarrantable interference with the elective franchise. We mean the franking of the *Globe*, a newspaper printed at the city of Washington, to the members of the last Legislature of Tennessee. These newspapers contained the speeches of Mr. Benton on his celebrated “Expunging Resolutions.” The practice of franking (or sending free of postage) is allowed to the President, and other officers of government, and to members of Congress, by *the laws of the land*. It applies to letters, newspapers, and other documents, without restriction as to what they may contain. Mr. Benton’s resolutions related to a point in Gen. Jackson’s public conduct, of the greatest delicacy to himself now, and of the highest importance to his future fame. The most factious and corrupt Senate that ever sat in America, had branded him

on its journals as a violator of the Constitution of his country. He had protested against this act of unjust condemnation, but that protest had been insultingly disallowed. Having no other alternative left for his vindication, he laid that protest before the people, and appealed to them, as the true source of power and final arbiter of all disputes between their public agents. Was it not, therefore, his right to lay before the representatives of the people, all public speeches and documents calculated to explain and vindicate his conduct in relation to the removal of the public depositories? He stood unjustly condemned by the Senate—he was earnestly desiring that that sentence should be reversed, by instructions given by the State Legislatures to their Senators in Congress. He was, therefore, perfectly justifiable in sending out, under his frank, every speech or document calculated to shed light on his conduct. The right of *defense* you allow to your worst offenders; why then shall it not be given to one of the greatest benefactors of the age? But, it is said that such documents and speeches were calculated to injure Judge White in the same proportion as they might benefit Gen. Jackson. Let this be granted, and then we demand to know why Gen. Jackson shall be denied the benefit of his appeal to the people, because Judge White was opposing that appeal, and was unwilling to have this foul reproach expunged from the journals, where it ought never to have been placed. Gen. Jackson had made that appeal, and Mr. Benton had notified the country that he would never cease his efforts to wipe out the stigma, long before Judge White became a candidate for the Presidency, or any of his friends dreamed that such high destiny awaited him. If he chose afterward to oppose that appeal, and to join in with the defamers of the President in holding the unjust stigma to the record, ought he to expect Gen. Jackson to give over his exertions and to abandon his defence, only because it brought into question the cause and conduct of Judge White?

We do not intend to discuss the expunging question, we mean only to vindicate the President from the charge of intending to injure Judge White, by abusing his franking privileges. He was strictly engaged in his *own defence*, in the vindication of his own character, and had set out and determined on that vindi-

cation long before Judge White was interested in the subject.

Another, and the last charge we shall notice, is that which relates to the conduct of the President during his late visit to Tennessee. During that visit he has been abused and misrepresented in the most wanton and shameful manner. He declared that *private* business of importance had brought him home to Tennessee—to that home which in his absence had been consumed by the devouring flames—to that home, where laid interred his once loved and much calumniated companion—to that home, where his own grave had been opened, with strict injunction that no matter in what land he might breathe his last, that here, beneath the sod of Tennessee, so often protected by his valor, and identified with him in so many of the illustrious and glorious achievements of his life, his mortal remains should be deposited. But to such a home, so endeared, and to such a State, so honored, he is not permitted to come without his motives and purposes being slandered and misrepresented! We cannot take time to enumerate all that has been said. Suffice it to say, that it is charged upon him, in passing through some of the congressional districts, he spoke unfavorably of their representatives in Congress. We have no doubt that he did, and have as little doubt that he *ought* to have done so. Shall members of Congress, on the floor of debate, or amongst their constituents denounce Andrew Jackson as a tyrant and dictator—as an elective monarch and a conspirator against public liberty, and then complain that Andrew Jackson has the spirit and the nerve to fling back the tide of reproach upon themselves? No man at all acquainted with his character ever expected the contrary. But it is said that on certain occasions he has denounced Judge White! And has not Judge White as often denounced Gen. Jackson? If the latter ever said of the former, that he was leagued with the Federalists, has not Judge White insinuated that Jackson was a wolf in sheep's clothing and a *conspirator* against the liberty of the people? We do not pretend to adjust the account nor *strike the balance* on the score of *hard words*, between these distinguished individuals, for we have not the information enabling us to be precise as to *what* they have said, or which resorted *first* to the use of opprobrious epithets. But we assure you, fellow-citizens, from what we have

heard and from what we know of the *equally irascible* temper of both, that honors are very likely to be *easy* on that score.

We submit no apology to the community, for this frequency of reference to Gen. Jackson—to his principles and measures, and to the gross and frequent injustice that has been done to him by the various factions now composing the opposition to his administration. The last victory of Democracy was achieved in his person, and the Republican party stood united and concentrated on him when Judge White, Gen. Harrison, and Mr. Webster took the field as Presidential candidates. No one of them, nor all combined, have any chance of success, but by effecting divisions and schisms in our ranks. This can never be done so effectually as by destroying the great and deserved popularity of Gen. Jackson with the Republican party. That being accomplished, his measures and principles of policy fall with him, and with their overthrow, Mr. Van Buren's must follow of course. Hence it is, that in every attack the opposition have closely identified Gen. Jackson with Mr. Van Buren, and thus rendered the defence of the one essentially the vindication of the other.

We now wish to bring this address to a close. In making this appeal, we have nothing to accomplish but what we sincerely believe is equally desired by a vast number of the friends of Judge White, towit: the preservation of the sound principles of our government. We are solemnly convinced, that such preservation requires us *forthwith* to give up the support of Judge White, and to unite with our Republican brethren of other States in the support of Mr. Van Buren, and thereby enable *the people* to make choice of the next President, instead of the House of Representatives. In this, we know a large portion of our fellow-citizens may differ from us in opinion. We, therefore, earnestly desire your attention to another view of the Presidential subject, which we believe you ought to take. If you are determined to cast the vote of Tennessee to Judge White, and to risk the consequences which we have attempted to portray, what course do you intend to take when, after all your exertions, he may have to be surrendered? If no election is made by the people, and the candidates shall go before the House, and if Judge White (being one of them) shall

LETTER OF AARON V. BROWN,

*To his Constituents of the Tenth Congressional District of the State of Tennessee, September, 1842.*

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GENTLEMEN: Never, in the course of many years of public life, have I so much desired to return to the bosom of a generous and noble-hearted constituency, to see you face to face, and to commune freely with you on the present state of our public affairs. But I find that I can have no such high gratification. Those who now rule the destinies of this country, seem to have resolved that the sovereign remedy for existing evils is perpetual legislation—so nearly perpetual, that they do not leave, between one session and another, sufficient time to the Representative (if he attend at all to his private concerns) to return to his district, and inhale fresh inspirations of wisdom and virtue from his constituency. The perplexing question is often asked, what the people of this country have gained by the Whig triumphs of 1840? Whatever of difficulty the dominant party may find in answering this question, one thing is certain, that they have kept Congress so long in session, that every one of them who are members of it, have been able to draw from the public treasury at the rate of eight dollars per day for every day since the 4th of March, 1841. This certainly is something *to them*, whatever it may be to the people. Never, in the annals of any country, so far as *legislation* was concerned, did a party have so full and so fair a chance to accomplish some great and striking advancement of the public

good. They came into power on the 4th of March, 1841, flushed with victory, and proudly boasting of an immense majority in both branches of the National Legislature. They elected their own presiding officers—appointed their own committees. They decreed in caucus what particular subjects should be acted on, and what should be excluded. They established their own rules; breaking down all the ancient safeguards of legislation. They suppressed everything like freedom of debate, by placing the infamous *gag* on their opponents, thereby silencing all opposition to their proceedings. In fine, they did *what* they pleased, *when* they pleased, and *as* they pleased. I do not mean at this point to discuss the *measures* of the called session: that belongs to another part of my letter. I am now dealing with narrative, not with commentary.

During the early portion of their career, all was peace and harmony in their party. I mean all that met, or was intended "to meet the public eye," was such. At length, however, the foul *demon of discord* appeared amongst their ranks. I say *appeared*, for I do not doubt he had always been there. How could any man doubt it? Their unnatural combinations, their strange and contemptible devices, and all the vile and corrupting means by which they achieved their victory, clearly show that they were "possessed of a demon" from the beginning. In overthrowing the sub-treasury, and undoing, in hot and inconsiderate haste, many things which had been done by Jackson and Van Buren, all were perfectly united. Mr. Clay in the Senate, and Mr. Adams in the House, actuated by all the feelings of revenge which frequent discomfiture could inspire, led on in this inglorious work of destruction. But when they came to build up for themselves and their party those institutions and measures which were to be substituted for those which they had destroyed, all became discord and confusion. Mr. Clay wanted a bank for *individual* speculation. President Tyler would have none which was not purely national and public in its functions, and strictly guarded against local discounts. The former looking more to the interest of *his partisans*, the latter to that of the *nation*, their differences became irreconcileable. The consequence was, the two vetoes on both the bank bills. The President stood on his conscience and the

Constitution ; Mr. Clay on his bank ; whilst the cabinet, (except Mr. Webster,) thinking, no doubt, that it was all nonsense to be talking about *conscience* and the *Constitution* at such a party crisis as that, suddenly threw up their commissions, and retired from the public service. At this trying period in their history, some few of the Whig party conducted themselves with a show of reasonable moderation. They seemed to have some respect for the sacred obligations of the President's oath ; and however much they differed with him in opinion, in his construction of the Constitution, they could not censure that regard for moral obligation which the President had so fully evinced on the occasion. But the Clay portion of the party scoffed at all this, as hypocritical and idle. They denounced him as a *traitor* ; the vile wretch at the other end of the avenue ; the perjured miscreant ; besides many other terms of wanton and unmerited reproach. The great *dictator* to his party, and the would-have-been dictator to John Tyler, raved and roared like a lion deprived of his prey. In his rage and fury, he seized on the great conservative power of the Constitution, and vainly endeavored to tear it out from that consecrated instrument. I say *vainly* endeavored, although this war on the veto power is not yet terminated : it is yet raging ; and we have witnessed, at the present session, the strange and appalling spectacle of Mr. Clay, in the Senate, endeavoring to pull down this, the noblest pillar in the Constitution ; whilst Mr. Adams, in the House, was taking the most effectual means to overthrow the whole Constitution and the Union together.

Such was the actual condition of the Whig party at the close of the ever-memorable called session of 1841. I speak *not yet* of their measures—their tendency to prostrate all the best interests of the country—nor of the highly censurable, not to say flagitious, means by which they were carried through Congress. I have another time and place for all this. My purpose is next to call your attention to the extraordinary condition of parties at the commencement of the present session of Congress—the regular one under the Constitution. Warned by their failure to do anything valuable or useful to the country at the preceding session, and alarmed at the indignant murmurs of the people, the Clay portion of the Whig

party, at the very earliest moment, declared that they would no longer be responsible for the management of public affairs. The President, they said, had separated himself from them ; and, as he had set up to have both *a conscience and a judgment of his own*, upon him should rest the responsibility of administering the government. Now, it was known that, although the President was a Whig—that every member of his cabinet was a Whig—and that he had a brave and gallant little band of Whig friends in the House—yet it was evidently impossible for him to meet this new responsibility, without a new organization of at least the House of Representatives. Did the Clay Whigs give the Tyler Whigs (as they should have done) the ability and means of meeting this responsibility, thus suddenly thrown upon them ? As a member of the Democratic party—belonging to neither, but determined to go with either, as far as I could consistently with my principles, in advancing the welfare of the country—I do not hesitate to say that they did not. From time immemorial it has been customary to give the Administration in being, the Speaker and the standing committees of the House, in order to give it a fair opportunity to bring forward and fully present its measures to the nation—a practice no less sanctioned by the principles of liberality and justice, than by immemorial usage. The President had vetoed, and, *pro tanto*, had rejected Mr. Clay's views and projects in relation to banks and the currency—the great questions of the times—on which, as it was alleged, all the relief of the people from pecuniary embarrassment depended. In consequence of which, his quondam friends were now declaring that all responsibility should be on him, and not on them. Was it, then, anything but fair that he should have a full opportunity to present *his own views and projects* on these and other all-important subjects ? But how did the case stand at the beginning, and throughout the whole period of this nine months' session ? How was it with the Speaker ? When elected, he was, but now he is no friend of the Administration ; but the warm and bosom friend of its greatest enemy. Yet he would not resign ; he would not generously relax his grasp on that high office, which the party, in the days of its unity, had conferred upon him. No ; he held to it with all the tenacity which hostility to

the Executive, or devotion to the Dictator, could inspire. What a vantage ground it proved to be, when he came to the appointment of Mr. Adams, and others like him, (if he can have likenesses,) on the special committee on the veto message of the President on the tariff bill! I speak all this in no spirit of unkindness to the Speaker, but with that impartiality which belongs to the history of this extraordinary session.

But how was it with the committees, far more important than the Speaker? How was it with the chairman of the Ways and Means, [Mr. Fillmore,] always regarded, here and everywhere, as the organ and confidential friend of the Administration? Would *he* resign? No; not he. He had acquired a *command* over the business of the House, over the treasury, and over the very salaries of the President and all in authority under him, which he would never relinquish. How was it with the Committee on Foreign Affairs? Would that chairman, [Mr. Adams] resign? No. The Georgia petition (which he presented himself) asking him to resign, for being monomaniacal on the subject of slavery—which, in the case of the Creole and others, might come before him—could not move him. The unwillingness of three—nay, of six—honorable gentlemen to serve under him, could not move him. Even after the presentation by him of a petition for the dissolution of this great and glorious Union, there was no power of the House (out of his own party) which could have moved him. There he remained, holding the command of the foreign policy of this government, a bitter and confirmed enemy to the Administration, and *an immense debtor to the Dictator* for the highest station which he ever filled. I could not look upon all this without remembering what I had said of these two (then and now) distinguished individuals, fifteen years ago, in the Legislature of Tennessee: “Mr. Adams desired the office of President: he went into the combination without it, and came out with it. Mr. Clay desired the office of Secretary of State: he went into the combination without it, and came out with it.”

I will mention but one other committee of the House, whose chairman [Mr. Stanly] is remarkable for his violent opposition to the President. This is the committee over which our most distinguished generals—coming up from the battle-fields of the

Revolution, or of the second war for independence—have usually presided. Would any of these have been proud to continue to be the *sword-bearer* to a President, after they had denounced him as weak, corrupt, and infamous?

But I mean to dwell no longer on this *descriptio personae* of the officials of the Clay party in the House of Representatives. I have said enough to show you that the sword, the purse, and the foreign policy of this country, have all been taken away from the President, and given up to his enemies. And yet they came forward and said that *he* must be responsible for everything, and *they* responsible for nothing!

During all the period of discord and the final disruption of the Whig party, the Democrats remained quiet and dispassionate spectators. They regarded it, throughout, as a sort of *family quarrel*, with which it were alike indelicate and imprudent to interfere. They had differed with the President in opinion on almost every leading measure of his recommendation or final adoption—his veto message on the bank bills only excepted. They had looked upon these as noble acts of self-devotion and patriotism, which might well challenge the gratitude and admiration of the country. When, at the late session, we found ourselves constrained to bestow the like commendations on him for his veto on the tariff bill, we were openly denounced as having seduced the President, and formed a corrupt bargain and coalition with him—a charge preferred without proof, and against proof. My colleague of the Davidson district, on that occasion, ventured far out into the unexplored regions of unfounded accusation; but took good care to secure his safe return, behind the ignoble protection of the previous question. That gentleman should have been amongst the last men in Congress to have repeated a charge which, he must have known, had its origin only in the chagrin and passion which prompted its utterance. He was long enough a member of the old Jackson and Van Buren Democratic party to know that it never stooped “to bargain, corruption, and intrigue,” for the accomplishment of any of its high and patriotic purposes. Those are the weapons of his new allies, (Clay and Adams,) to whose standard he has fled, and whose cause he is now seeking to advance with so much ardor and zeal. If pledged

(as I believe he was) to demand the previous question, he should have forborne to make such an attack on the Democracy of the House, when he knew that he intended to give them no opportunity to repel and defend. The previous question has been the fortress to which that gentleman and his party friends have often fled for shelter and protection. Witness the recent case of the President's protest, when they held fast their victim, giving to the most fierce and savage of their party a full opportunity to lacerate and tear his flesh; and then, when the hour of retribution arrived, bore off the executioner to that great Whig city of refuge—the previous question.

But it is probably time that I should leave this running narrative. I have intended it as a general outline of party movements, essential to the proper understanding of those obnoxious and ruinous measures which the Whig party have passed, or attempted to pass, since their advent to power. What have been

#### THE MEASURES OF THE WHIG PARTY?

I do not mean to give you any long, prosing enumeration of them, nor of the arguments for and against them. Nor do I mean to make any classification of them, as to the called or regular sessions. I consider both sessions in the same light—both as exhibiting the most wretched disregard of the most solemn promises made to the people anterior to their election. Amongst others, the promise of *relief* was the most prominent. Mr. Clay did not hesitate to proclaim, that the mere fact of the election of Gen. Harrison would raise the price of property in every portion of the Union. Mr. Crittenden [his then colleague, and now successor in the Senate,] declared that, in his opinion, it would add one hundred millions of dollars of capital to the country. All the Whig electors, and other itinerant orators of 1840, expressed similar opinions, and uttered the same false and deceitful prophecy. It deceived hundreds and thousands in that election. When reminded of all this at the called session, the evasive reply was, "True; but we cannot do everything at once. Wait but another year, and you will see the glorious realization of all our promises." Well, the country has waited, until thousands, who expected relief from them, have become hopeless bankrupts. Property of every

description has gone down. Produce—cotton, rice, tobacco, wheat, and, indeed, everything—has fallen to a price not remembered by our oldest inhabitants. What was but a fleeting shadow of adversity in 1840, has now settled down into the dark midnight of ruin, and almost of despair. And what are we told now? Why, “Take the benefit of the bankrupt law.” “Swear off all your debts.” And then “foreswear Captain Tyler and the veto power of the Constitution forever.” In all the gravity which this distressing subject is calculated to inspire, may we not now ask—may not the people throughout all this broad land now ask—“Is this the entertainment to which we were invited?”

Of this bankrupt law, (the only measure of *relief* to which the Whigs can point,) I have but little to say. It was a favorite measure of Mr. Clay, not among the subjects mentioned in the President's message, but was forced on the list of subjects to be acted on, by the overshadowing influence of that individual. It passed by a vote of 111 to 105—every Democrat in the House, except 3, and every one in the Senate, except 4, voting against it, and disputing every inch of the ground. Every Whig member from Tennessee voted for it, except Mr. Wm. B. Campbell and Mr. Gentry. Mr. Milton Brown flushed his maiden sword in debate upon it. General Caruthers threw round it all the stately blandishments of his approbation. The three gentlemen from East Tennessee gave a clear and hearty affirmative to the call of the clerk, evincing the delight which the opportunity to give such a vote had evidently inspired. You may judge, then, fellow-citizens, my surprise, on seeing it often stated in the public press of Tennessee, that not a single distinguished Whig in the State was in favor of the bankrupt bill. All these gentlemen are quite distinguished, as they deserve to be, and can hardly be flattered by such an unjust party pretermission. But the object, no doubt, was to screen another “distinguished citizen” of the State from the imputation of being in favor of the bankrupt law, inferred from his inveterate silence when interrogated on the subject; and for this purpose, Messrs. Caruthers, Brown, J. L. Williams, C. H. Williams, Jefferson Campbell, and last, though not least, in the way of *distinction*, Thomas D. Arnold, were to be all rapped over the knuckles for his benefit.

The next subject of their legislation which I wish briefly to notice, is—

THE BILL FOR THE DISTRIBUTION OF THE PROCEEDS OF THE PUBLIC LANDS.

I have never been able to learn from them whether this was one of their measures of *relief to the people*, or not. They have found it very hard to show how it can be a relief to a man from pecuniary embarrassment, to take his own money out one of his pockets, and put it into another—taking a part of the money as commission for performing the operation. Now, if you would give him more of *somebody else's* money, you might talk to him about the additional help and relief it might be in the payment of his debts; but to shift *his own money* from one pocket to another, and then tell him how much better off he has become than he was before, is a sort of charlatanism easily exposed. The people of this country have two sets of treasures—the National and State. These must both be kept supplied—the one for general or national purposes, the other to meet their local demands. Now, it is evident that, in times of scarcity, when both are insufficient to meet the proper calls on them, it can be no relief to take *out of one* and put in *the other*; because you must instantly turn round and fill up the vacuity which your false and deceptive financiering had created. Nor have I ever met with one Whig so shrewd as to be able to avoid the just application of that homely aphorism, that it is always wrong “to rob Peter to pay Paul”—to rob the General Government to pay the States. But this case of distribution is much worse than that. It is robbing Peter to pay Peter, and then insulting him by the assurance that you have made him much richer by the operation. But I will not enlarge on this, because I have always believed that the main design and purpose of *giving away* this fund was to have a plausible excuse for the passage of a higher and more oppressive tariff for the protection of Northern manufacturers. A few Southern Whigs communing with them in their midnight caucuses, and thereby learning more of their ultimate designs, positively refused to go for the bill, until there was an express provision for its repeal whenever the rate of duties should be raised above twenty per cent—that being the rate of the compromise act of 1833.

Here commenced a system of legislation that can never reflect credit on the Congress or party which enacted the distribution and the bankrupt laws. If the tendencies of both laws were injurious, the mode and circumstances of the passage were flagitious. The latter bill was rejected on one day, by nearly a dozen votes. On the night of that same day a caucus was held, in which the importance of that bill, in a party point of view, and the dependence of the distribution bill upon it, were explained and insisted on. The result was, that next morning the vote of rejection was reconsidered, and the vote passed by a majority nearly as large as the one by which it was rejected on the day before. Some *dodged*, others got *sick*, whilst several reversed their recorded votes of the preceding day. The distribution law, in the meantime, had been hanging in the Senate in a state of suspended animation. The vote rejecting the bankrupt bill was considered as having sealed its fate; and the whole party, in a wretched state of despondence, were preparing to break up the session, and go home, having failed in every great measure which they had attempted. But mark the sudden change! The moment the news of the next morning arrived in the Senate chamber, that the bankrupt bill had been reconsidered, and passed, the countenance of the great Dictator and his friends brightened up; the distribution bill was reanimated and passed—even then by the smallest possible majority. How sincerely should it be wished that the eye of a virtuous and enlightened posterity should never rest upon the page that records the incidents of this transaction.

I wish next to call your attention to a measure, or rather a system of measures, for borrowing money. You have seldom been able to look over the public newspapers, without finding something about

#### THE LOAN BILL,

or, in plainer language, the bill to increase the national debt, by borrowing more money. The frequency of such bills, the low condition of our finances, and the difficulty of negotiating for money on the national credit, must have attracted much of your attention. That our treasury is in an exhausted and almost bankrupt condition, is not to be denied; and that it must continue so, in a great degree, for some time, if this party is

to be continued in power, I think is equally manifest. What sort of a treasury would satisfy their enormous appropriations, or meet the increased and accumulating extravagance of their expenditures?

In 1840 they saw Mr. Van Buren expending \$22,389,356, and pronounced such extravagance alone to be sufficient for his instant expulsion from office. They contrasted this sum with that which they said was the amount of Mr. Adams's administration, and cried "Down with them for such reckless extravagance." Yet, strange to tell, the very first year that they came in, they actually expended \$26,300,000—four millions and odd more than Mr. Van Buren had expended. They do not propose, for any future year, to expend less than twenty-six or twenty-seven millions of dollars. All the great oracles have said it, and published it to the nation. Clay, Evans, Adams, Fillmore, Saltonstall—all agree that no less than twenty-six or twenty-seven millions of dollars will do for them. What a commentary on their professions of economy and retrenchment made before the election. I have watched them closely, to discover by what new deyices they mean to endeavor hereafter to impose on you, on this subject of retrenchment and reform. They mean to point you to one or two clerks; to as many little orphan pages about the hall; and to one old man, his horse and cart, that they turned out of office; but nearly all of whom, I believe, they afterwards turned back again. They will call your attention also to the *contingent expenses* struck out of the general appropriation bill—amounting in all to a very considerable sum of money. But I pray of you to demand of them to show the separate bill for the *same* contingent expenses subsequently reported and passed—swelling and increasing the amount far beyond what it was before—inserting new clerks on high salaries, and rendered so extravagant that the very gentleman [Mr. Gentry] who moved in the matter, and whose motion was extravagantly eulogised in the Whig papers of Tennessee, repudiated the bill altogether, and denounced the outrageous extravagance of the committee (Whig, of course) who had reported it. You must remember, also, what great parade was made over the supposed discovery that three or four clerks had been employed without the regular sanction of law. But

their supposed discovery soon turned out to be no discovery at all. Every one of them *had been lawfully appointed and paid* annually in the proper appropriation bills. But it was contended that, although that might make them *lawful*, yet it would be a *better practice* to have them appointed by a separate law disconnected with the appropriation bill. This, of course, presented a mere matter of expediency, and dissipated into thinnest air the attempt to criminate preceding Congresses who thought proper to appoint them by a different mode of legislation. There is another device which you may look out to be played off upon you, as an excuse for spending annually upwards of four millions more than was expended under Mr. Van Buren's administration. They have already attempted to do this, even here; and, though baffled and refuted by the reports of their own Secretary, and the lucid speeches of Messrs. Woodbury, Benton, Atherton, Calhoun, and others, they will, no doubt, attempt to do it again. The pretence is, that a good deal of this money, (the twenty millions authorized to be loaned) and the large expenses estimated for the four years of their administration, is needed to pay off a large public debt *inherited* by them from Mr. Van Buren's administration. So much had been said, and insinuated, from time to time, on the subject, that, on the 28d of September last, the Senate adopted a resolution calling on the Secretary of the Treasury to report the amount of the public debt on the 3d of March, 1841, the day when Mr. Van Buren went out, and General Harrison went into office. That account, taken from the records of their own Secretary, shows the debt (which they say they inherited from Mr. Van Buren) to have been only \$5,607,361 54. This document is numbered forty-one on the files of the Senate. Whenever you shall hear *this inherited debt* presented as an excuse for these vast expenditures now going on, and in further contemplation, put an end to all mystification on the subject by requiring the production of this document. It was intended to settle this question, and does settle it forever.

#### APPORTIONMENT BILL—ORGANIZATION OF THE HOUSE.

I am compelled to pass over altogether many subjects of recent legislation, justly deserving the most pointed rebuke; such, among others, are the bill apportioning representation

among the States, and the bill regulating proceedings in case of contested elections. The first act contains a dangerous invasion on the rights of the States, which I resisted at every stage of its progress, whilst there was any hope of getting clear of the obnoxious provision, mandatory to the sovereign States of the Union. The Democratic party resisted that provision, from the time it was offered, and sought every opportunity afterwards to strike it from the bill; most of them, indeed, finally voted against the bill altogether, rather than submit to it. Others, believing that it was their bounden duty to make an apportionment under the Constitution, and that, if it were not done it might threaten a consequence little short of the dissolution of the government, felt themselves bound to yield to the unrelenting power of the majority. Upon their heads be the responsibility of forcing this provision into a bill, which they knew was obliged to be passed in some form or other. At no distant day will they feel the full force of that responsibility in the returning surges of popular indignation. The second bill contained provisions in relation to the organization of the House at the commencement of each session, and conferring powers on the Clerk to determine who should be regarded and qualified as the lawful members of the body; utterly inconsistent with that clear, and, until now, never invaded provision of the Constitution, which declares that "each House shall be the judge of the elections, qualifications, and returns of its own members." It was evidently a stratagem to save something from the wreck of their falling fortunes. They knew at the time the law requiring elections to be held by *districts* was passed, that some States had elected their members already, or would do so before the news would reach them of the passage of the act. They knew, also, that some States were so attached, from ancient usage, to the general ticket system, that they would most probably not conform to the law; and then, as the Clerk who would have to officiate as high priest for the party at the opening of the next Congress, *would be a Whig*, they hoped, by these means, to get some party advantage, which might save them, at least for a time, from total and utter discomfiture. Vain hope! delusive expectation! No breach of the Constitution—no invasion of the

rights of the States—no high priest to cheat for you *after* the election, can save you from the deep condemnation of the people *at the election*. The only remaining measure of the late session, which the limits of this letter will allow me to mention, is

## THE TARIFF.

The Bank was the favorite measure with the Southern Whigs: the tariff with the Northern ones. The first had been lost by the veto of the called session; and the second was involved in much difficulty by two solemn compromises, limiting its amount to twenty per cent. The first compromise was in 1833, in order to prevent civil war, and a probable dissolution of the Union. The North had enjoyed the benefit of it, on their part, ever since; and now the time was coming (30th June, 1842) when the South was to begin to enjoy it on her part. It has often been questioned whether the North would continue to adhere to this solemn compact or not, when it began to be her interest to violate it. Hence the candidates for the Presidency in 1840 were often questioned on the subject, because the South could not afford to vote for any man for that high office who would withhold from it her part of the bargain, after the North, for nearly ten years, had been pocketing millions upon millions under it. The Southern Whigs obtained the solemn promise of General Garrison that he never would consent to set aside or violate the compromise act of 1833. In his Zanesville letter he said :

“I am for supporting the compromise act, and *never* will agree to its being altered or repealed.”

In reply to a letter from Mr. Berrien of Georgia, he said :

“Good faith, and the peace and harmony of the Union, do, in my opinion, require that the compromise of the tariff, known as Mr. Clay’s bill, should be carried out according to its spirit and intention.”

Well, these letters were published; and many of the States, opposed to any other tariff than the compromise, voted for Harrison and Tyler—the latter of whom every one knew to be so much of an anti-tariff man as to have been even a nullifier in the days of that doctrine. But Harrison was dead at the time of the called session, and the time was rapidly approaching when the fidelity of the North would be brought to the test. It was, therefore, highly important to the South to get

some renewed pledge from those who were still professing to be the Harrison party, and to reverence and honor his principles. An opportunity occurred on the passage of the distribution bill. It was said often in argument in relation to that bill, that, if the land money was given away, Congress would be obliged to raise the duties above twenty per cent., in violation of the compromise, in order to have money enough to carry on the government. This roused up Southern Senators to demand a renewal of the Harrison pledge, *never to violate the terms of the compromise.* Without this renewed pledge, they declared that they could not and would not vote for the distribution. Thereupon, the Whig party in the Senate *did give the pledge*, by introducing the proviso, that if, at any time, the duties should be raised above twenty per cent., the land distribution *should cease*. They sent it to the House of Representatives, where the Whig party of that body *signed, sealed, and ratified the same pledge*. The good faith of the North to the observance of the compromise having been thus more than doubly secured—secured by the pledge of *Mr. Clay*, that no honorable man deserving the name of an American statesman, would ever propose its violation—secured by the pledge of *General Harrison*, that he would never consent to set it aside—secured now, in 1841, by the pledge of the *Whig party in both Houses of Congress*, that they did not intend its violation, *and that, if they ever did*, they would instantly surrender the further distribution of the land fund. With such assurances as these, the land bill received the sanction and signature of the President. Now, under all these solemn covenants, compacts, compromises, or whatever else you may choose to call them, made in old and recent times by the leaders of the party, and *by the party itself*, what ought to have been done by them in relation to the tariff at the present session? ~~if~~ They ought to have enacted only a few obvious provisions in relation to the *mode* of ascertaining the home valuation, and of carrying into effect the compromise act of 1833. This, and the correction of some errors of the last session in regard to the list of free articles, are, in my opinion, all that honor, justice and good faith allowed them to have done. This could have been done in a few weeks, at farthest; half of this *everlasting session* could have been saved, and all the parts of

our country, now excited and agitated by this dangerous and delicate question, could have been reposing in confidence and affection under the equal and benign protection of the Constitution. It may seem to you strange that this "consummation devoutly to be wished" for, was not attained. But you must remember that it has been the policy of the dominant party not to bring forward their measures separately, but to link and fasten them together, so that, by a combination of various interests, all should be dragged through together. The journals show that no one of the great measures of either session ever commanded the majority of the two Houses of Congress. Not one of them. Neither distribution, the bank, the tariff, nor the bankrupt law, ever had a majority of the two Houses; and yet all of them were gotten through. I have just shown you how the bankrupt bill dragged through the distribution bill, and how the latter, by increasing the wants of the treasury, dragged through the tariff. All these measures were declared by the Dictator to constitute a *system*, and should be judged of and acted on as a *system*, and not on their individual and separate merits or demerits. Hence it became the interest of all to support each, and of each to support all. But the President, by his veto, had put the bank interest out of the concern, and there remained, *to trade upon* at this session, only the two remaining measures—distribution and the tariff. I have just mentioned the embarrassing *pledge* which both of these interests had given at the preceding session. According to that pledge, if the tariff went up above twenty per cent., distribution must cease. If it did not go up above twenty per cent., the manufacturers insisted that they would be ruined. In the meantime, it was known that the President would not sanction both. What, then, was to be done? The party was *in extremis*—its agony immense. If the walls of their secret council chamber could speak, what a tale would they tell of this ill-judging and ill-doing party! Well, their resolution was taken—to make one more bold and united charge, and drive the President, if possible, from his position—compel him to sanction both distribution and a higher tariff than the compromise. "What though he remind us that the compromise was the work of *Mr. Clay*? what if he shall tell us of General Harrison's and his own pledges of 1840?"

what if he show us the page of our own recorded pledge of the last session?—we have no alternative.” The bill is accordingly prepared—distribution and protection are linked together. What sort of protection? The highest, having reference to the rates established, the present prices of most articles, and the general circumstances of the times, which was ever passed in this country. I have no time to show you its enormous rates now on sugar, iron, salt, domestics, woollens, on everything. I have done that on another occasion. The Democrats did all they could; they stood on the compromise; they advanced even farther, in the later progress of the measure. They brought forward a proposition (Senator Sevier’s) advancing five per cent. on the compromise act, and allowing home valuation and cash duties beside—equal to at least thirty per cent. But it was all in vain; their own bill, and nothing but their own bill, they were determined to have.

They passed it by a vote of 105 to 103; and, had all the members been present, it would have been an exact tie, and dependent on the vote of the Speaker. That vote would have been undoubtedly given in favor of the bill. This would have presented the question, whether the Whigs would have had a bill by virtue of the one-man power. They complain grievously that they *lose* a bill by such an odious power, and surely they would refuse to receive one from such a source.

The bill was so enormous and unjust in its rate of duties, that, although it was one of high party interest, every one of my Whig colleagues from Middle and West Tennessee (except Mr. Gentry) voted against it. The veto of the President, however, although it defeated the very bill which they themselves had voted to defeat, they did not and would not support. Such was their exasperation against Mr. Tyler for doing precisely what they had done, (withholding his approbation,) that when the bill was again put on its passage, as required by the Constitution, not one of them would vote against it, as they had done before. I suppose they concluded, that, as they could not consistently vote *for* the bill, and as a vote against it might seem too much like agreeing with the President, they concluded not to vote at all! On the passage of the McKennan bill, (without distribution,) the Democratic members of the State

had the gratification of recording their votes with those of every Whig Representative from it (except Mr. Joseph L. Williams) *against the bill*. It was, indeed, a most gratifying concurrence of opinion, indicating that there would be, at all events, not more than one man from the whole State to sustain this odious and oppressive measure. But our satisfaction was of brief duration. When the bill returned from the Senate, a motion was made to lay it, with all its amendments, on the table. If this motion succeeded, the bill would be defeated, and the country rescued from all the evils which it was calculated to inflict, at least on the agricultural States. It was the last final test vote on the subject. But our Whig friends, with only two exceptions, voted *against laying it on the table*. These exceptions were Mr. Gentry and Mr. C. H. Williams, who were, no doubt, unavoidably absent, and, therefore, did not vote at all. Even the burly and intractable Arnold, who had been with us in every contest, (after he lost his land, and got so mad with President Tyler for his veto,) now deserted us in the last dying struggle against the bill, and went back and joined again with our oppressors! How strong are the triple cords that bind us to our party! I return from digression, to pursue further the history and progress of this measure.

On the 9th of August the President returned the bill with his objections. The message was one of the best he had ever sent to Congress. Lucid in style, and cogent in argument, it marched directly on its object. It breathed no complaint that a second experiment had been made to drive him from his known opinions, nor uttered the slightest rebuke for this breach of the plighted faith of the party which had originally secured his signature to the distribution bill. But he was met in no correspondent spirit of forbearance and moderation. What was never done before, was perpetrated on this occasion. A special committee, composed of the President's bitterest enemies—Adams, Boott, Granger, and others—was appointed, to whom the message and the bill were referred. The report of Mr. Adams was all that might be expected from the vast but poisoned well of learning (not knowledge) of that passionate and irritable old man. It abounded in whatever dislike to the President, hereditary hatred to the Democracy of the country, and

an ardent desire to pay off his old debt to Mr. Clay, could inspire. It went far beyond the proper subject referred to the committee, and was evidently intended as a sort of apologetic address to the American people, for all the errors and short comings of the Whig party. Without taking time to examine this address, let me recite the extraordinary and exciting incidents in relation to the tariff, subsequent to the veto. The Clay portion of the party seemed roused to the very highest pitch of rage and fury. They declared for instant adjournment. When reminded that one of their own bills (Mr. Barnard's) for remedying real or supposed defects in the collection of the revenue, ought to be acted on, they indignantly refused to go into committee upon it. When admonished that all the duties now were being paid under protest, and that if the courts should determine that no duties at all were collectable, the consequence might be the stoppage of the very wheels of government,—the reply was, Let them stop, and on John Tyler be the responsibility. The speech of Mr. Adams, his report, and the vote of the Whig party all indicated a fixed and determined purpose to abandon the halls of Congress forthwith, and leave the government to whatever fate might befall it.

Even the midnight caucus drill had lost its magic potency. The eloquence of Marshall, (who was understood to be the first to insist that the bill should be passed without distribution,) the earnest and touching appeals of the manufacturers, could produce no effect on the maddened and infuriated cohorts of the Dictator. The caucus broke up with the understanding that they could agree upon nothing on the subject, *as a party*; but that any member of it might bring forward such proposition as he thought proper, and that each one should vote for or against it, without any party responsibility. In this state of things, Mr. McKennan, a Whig of Pennsylvania, (a convert I believe to the arguments of Mr. Marshall,) came forward with the bill which had been vetoed—leaving out the twenty-seventh section in relation to distribution. In his speech, he avowed his determination, and that of most of his Whig friends, to support this bill, and no other. He said they would scorn to receive one at the hands of the Democrats; that it was useless *for them* to

move in the matter at all. Up to the very hour when the bill was passed, it was understood that the particular friends of Mr. Clay were still determined to go against the bill, and that they held the power to defeat it. This presented a most trying crisis. That something should be done in relation to the collection of the revenue, was admitted by all. The Democratic party, generally, were perfectly content with the rate of duties of the compromise; but as serious doubts were entertained by many whether some *new law* was not necessary to regulate *the mode* of collecting them, they were anxious that such doubt should be removed. They had often tried to remove it, but the Whig party had always prevented them. Now they were told that it was useless *for them* to propose *anything*, for the Whigs would scorn to receive it at their hands. What a strange condition was here. The Democrats can do nothing, because opposed by the whole Whig party *en masse*. The Northern manufacturing Whig party can do nothing, because they propose a tariff too high for Democratic acceptance; and, because it omits distribution, the friends of Mr. Clay will give it no support, but insist on instant adjournment, and abandonment of the government to its fate. I but describe to you the actual and embarrassing condition of affairs at one of the most critical periods of our history. It was under such circumstances as these that the Democrats of Pennsylvania, and a portion from New York, resolved to throw themselves into the breach between the discordant Whig factions, and save the government from that ruin and destruction which they verily believed might be the consequence of the madness and desperate course of the Clay faction. The same state of things was found to exist in the other House, when four Democratic Senators, from similar motives, pursued the same course. Whilst I cannot assent to their reasoning, nor approve of their vote, I feel constrained to admit the purity and patriotism of their motives. When, however, it was discovered that the bill would probably be passed without their aid, these "*furiosi*" of the Whig party began to think what sort of record they were making up for themselves and their friend "Harry of the West," in reference to the campaign of 1844. The very thought that this desertion and abandonment of the manufacturing interest might be re-

membered in the next Presidential canvass, seemed to operate like a charm upon them. One by one, slow, reluctant, and solemn, they came forward—Botts, Stanly, Thompson of Indiana, and many others—to give in their adhesion to the bill; but all solemnly declaring that they would never surrender to Captain Tyler—never, never, not they! In the Senate, the same reluctant capitulation. Mr. Crittenden exclaimed “that he looked upon this as the proudest victory the Whig party had ever achieved; they had conquered (not Capt. Tyler, but) themselves.” Never did that Senator utter a sounder truth than that. In the hectic glow of pretended triumph, he pronounced the appropriate epitaph of his own party,

“*The Whigs have conquered themselves.*”

They have accomplished their own destruction, by the folly and wickedness of their measures. The distribution bill broke down our national credit, and brought it so low that their party can scarcely borrow a dollar, even at enormous interest, either in this country or in Europe. How could they expect to borrow money, when, with no means of repayment, they were giving away every dollar which they were to receive from the sale of our vast public domain? Who would lend money, either to an individual or government, who was *giving away* with one hand whilst he was *borrowing* with the other?

But whilst the distribution law destroyed our national credit, the bankrupt law destroyed all remaining confidence between man and man, and thereby increased the heart-rending sufferings of the people in their pecuniary affairs. What foreign creditor could feel easy and indulgent to his American debtor, when the next packet might bring the news that he “had taken the benefit of the act,” and that his debt was lost forever? What Eastern merchants would be indulgent to the Western ones? And how could the last be indulgent to their numerous customers—farmers, mechanics and laborers? Each is afraid to wait, lest some one else shall get the start of him, and exhaust his property; and that when *he* calls for his pay, he may find that the debtor “has nothing more than the law allows.” Nor will the operation of this new tariff fail greatly to increase the burdens and distresses of the people. It is impossible for it to fail to do so. How can a people, already oppressed with debts,

Jail to be injured by being required to pay higher taxes—higher for his salt, his iron, his sugar, his blankets; in fact, higher for everything he either eats, drinks, wears, or uses? Every man of plain, common understanding, must see, in the enormous rates imposed by this law, deep, and, I fear, lasting injury to the community at large;—not to the manufacturers, not to the capitalists, of course: these will fatten and grow rich upon it; but the farmer, the planter, the mechanic, and laborer must suffer under its cruel and unjust exactions. To show you its operation since its passage, I subjoin the following from the New York Journal of Commerce:

“ The tariff, though a great relief from the dangers of no law, is yet operating very severely upon merchants engaged in the foreign trade. A friend of ours who happened to be yesterday in the store of an importer, seeing a row of packages of dry goods which appeared to have been recently imported, inquired of the merchant as to the operation of the tariff. The duty of the first package, said the merchant, is ninety per cent. on the cost; on the second, one hundred per cent.; on the third four hundred per cent.; on the fourth, fifty per cent.; and the fifth, two hundred per cent.; on the sixth, sixty per cent.; and on the rest fifty to seventy-five per cent. The duties, it will be remembered, are levied from the day of the signing of the act, upon goods which were ordered with the expectation of paying twenty per cent. Such duties, payable in cash, of course put an end to trade. The package which paid a duty of four hundred per cent., was fancy cotton handkerchiefs, with a thread of silk around them to heighten the color, which made them subject to the specific duty on silk by the pound. It is greatly to be regretted that Congress, after so long a session, should have come to so unsatisfactory a result. We hope, however, that, at the next session, Congress will modify the extravagant features of the bill, and bring it into a shape which will give to all kinds of business the fundamental basis of prosperity—permanence and steadiness.”

I know well how the leaders intend to escape from the odium which these measures must bring upon them. They are now engaged in raising a hue-and-cry against President Tyler, in order to draw away public attention from their own evil deeds, and fix the blame on some other than themselves. It was ever the custom of that party to do so. Who would have believed that in 1840, when they were making their false accusations of corruption against Mr. Van Buren’s administration, they were paying out thousands to bribe men to vote against him in the elections? The disclosures of Stevens and Glentworth, and others, have since come to light, and have astonished the na-

tion. No man now, of any party, has the least doubt of the substantial truth of these disclosures, and hundreds and thousands have left their party in consequence of them. Since that election, too, the old United States Bank has rotted down upon its foundations, filling the land with the stench of its putridity and corruption. A committee appointed by the stockholders to save something, if possible, for them from the wreck, have reported that more than half a million of dollars are unaccounted for, and that the vouchers for that amount have been suppressed or destroyed. No man doubts but these vouchers, if produced, would have shed much light on the bribery and fraud of the last election. Again: who would have believed, when the itinerant rhetors of that party were traversing the country in 1840, making the loudest professions of their devotion to order and law, and all the institutions of our country, that they had formed, and were cherishing a deep design and settled purpose, in case they were not successful in that election, to destroy all order, to disregard all laws, and overturn our institutions by revolutionary violence? At a period too late for detection, or when their partisans had become maddened and infuriated like themselves, these designs of violence and force were publicly avowed.

In a speech of Senator Preston, at Richmond, Virginia, he is reported to have said: "If Mr. Van Buren cannot be displaced through the ballot-box in November next, I, for one, am ready to resort to such means, as God and nature have put within my reach *to force a change.*" Mr. J. C. Graves, in a speech at Portsmouth, Virginia, is also reported to have said: "If it were not for the hope of redress through the ballot-box, I would here, so help me God, upon this holy altar, take an oath this night, *to take up arms*, and march with you to Washington, and put down the present dynasty *by force.*" The late Secretary of War, (Mr. Bell,) in a published letter to the party committees, to whom he was writing, said: "The appeal is now to reason. No feelings but those of patriotism, love of justice, and equal right, need be invoked *as yet*: though the day *may* come, when a sense of injury and oppression, of indignation for a country's institutions dishonored and overthrown, may call forth *deeper passions* and awaken *different energies.* That

day I hope may not come ; but if it should, I shall be ready to do my duty then, as well as now." Mr. Butler King, of Georgia, is reported to have uttered sentiments, at a public assembly in Maryland, which I have not now before me ; but by no means less violent than those of Senator Preston, Mr. Graves, and Secretary Bell. Another member of Congress, then and now quite distinguished in the Whig party, did not hesitate often and publicly to declare that he went for the peaceful remedy until November, and, if not successful, he meant to go for arms.\* I do not know that any of these gentlemen have ever denied the language here attributed to them, and I advert to them as a portion of the party history of the last Presidential election ; happy if I shall ever be authorized by any of them to correct any of the statements here imputed to them. I must now allude to another foul and wicked plot of recent disclosure.

Mr. Pleasants, editor of the Richmond Whig, in a letter, dated August 25, 1842, after describing the state of excitement for a few days after the election of 1840, and the conclusion amongst the Whigs that Mr. Van Buren had been elected, and in their opinion, by fraudulent voting, proceeds to state as follows :

" In this state of feelings, three individuals, who happened to be together, interchanged opinion, found an entire concurrence of sentiment among themselves, and hastily arranged the heads of a plan for redressing the wrongs of the country, by securing the person of Mr. Van Buren previous to his inauguration. Three things were to precede putting it in execution : 1. The election of Mr. Van Buren. 2. That he could not have been returned without the vote of Virginia. 3. Proof, carrying positive and undoubted certainty with it, that his majority in Virginia was fraudulent. These preliminaries ascertained, twenty persons (men who could depend on one another) were to be admitted into the association, under the pledge of secrecy and fidelity. Ten of the number were to proceed to Washington in a fast steamboat, giving out that their object was a jaunt of amusement, to witness the approaching inauguration. It was imagined that there would be little difficulty in finding an opportunity in conveying Mr. Van Buren on board by stratagem or force ; and, this done, the boat was to run with all despatch for Albemarle Sound, previously agreed upon as the destination. There the ten were to be met by their associates, and Mr. Van Buren to be escorted by the whole into the upper districts of North Carolina—Cornwallis's most rebellious people in America—and whom we know to be now as staunch Whigs as their fathers were in 1780. Arrived there, a manifesto was to be

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\* Mr. Botts.

published, addressed to the American people, declaring the motives and objects of the act, and the vicinage assembled and appealed to. Mr. Van Buren himself was to be treated with the greatest possible respect and courtesy, compatible with safe custody. The manifesto was to demand a new election, and the restoration of the rights of the majority. The next Northern mail brought confirmation of a great Whig victory, and, of course, the plan of abduction and all thoughts of it were abandoned. Whether it would have been executed, if the events had fallen out, the anticipation of which led to its conception, is beyond my power to know. *I believe it would have been*; for, although it was emb-aced in passion, that passion was not likely to cool by witnessing successful frauds in the enjoyment of its spoils."

I have no time or inclination to dwell on this nefarious and wicked purpose; it is submitted to the calm judgment of a people, who may sometimes be cajoled and imposed upon, but cannot be prevailed upon deliberately to sanction that violence which puts all law and order and humanity at defiance. Who does not know that, if this project had been carried out, what commenced in kidnapping and abduction, would have ended in the murder of Mr. Van Buren, in order to get rid of his testimony against the perpetrators of so foul a deed? And who can doubt the imminent peril and danger to which John Tyler is every day and every night exposed, from the same foul and demoniac spirit? This very letter was written, in order to show that abduction was not the proper remedy in Mr. Tyler's case. But when the lawless brigands of the party shall hear from Washington that impeachment is impracticable, what may not be expected from the rejected office-seeker, or the infuriated political desperado? The session closed with the charge of treason and perjury burning on the lips of nearly every prominent leader of the Clay faction, well calculated to admonish some half-crazed retainer that "it would be doing God service" to despatch him with the stiletto or pistol. The wretch who basely attempted to assassinate General Jackson on the steps of the capitol, had not half the encouragement to the perpetration of the bloody deed.

And now, my countrymen, before I close this letter—already too long—permit me to ask whether you intend any longer to attach yourselves to a party, led on by political leaders such as I have described? Many of you, I know, joined that party

with great hesitation ; you have continued with them with great reluctance ; you have never felt entirely satisfied, either with their measures or proceedings ; but you have, nevertheless, generally gone along with them, justifying some things, it is true, but apologizing for the most of what they have been doing. Who of you that marched in their processions, and united with them in raising the liberty-poles and the cabins in 1840, had the slightest suspicions that such wicked and bloody designs were entertained as have since been fully established upon them ? Who, that listened to their speeches, breathing nothing but devotion to liberty, religion and law, could have been made to believe that the time was so near at hand when you might be called on by them to rear the standard of revolution ? I know the great body of the Whig party never thought, never dreamed, of such results. But they are now disclosed—made manifest ; and every man who respects order and good government—every man who reverences the principles of our holy religion—every man who loves his country, her freedom, her constitution, or her laws, should go no further with them.

They have determined to rule or ruin this country ; to rule by fraud and bribery *at* elections, or by force and violence *after* them ; to ruin by the folly and wickedness of their measures, or by a new and alarming method discovered and introduced by them within the last few years. Throughout the turbulent session of the twenty-sixth Congress, it is known to every member of it, that often, when unable to carry their point without it, they would withdraw by common concert, in order to reduce the House below a quorum ; and when a call was ordered, in order to force their attendance, they would drop back into their seats and answer their names ; thereby avoiding the responsibility of such revolutionary movements. For one whole night—from sunset to sunrise—have we seen this party withdrawing and returning, marching out, and then marching back again, in order to weary out and baffle the lawful and constitutional legislation of the House. In the Senate, on one occasion, the author and founder of this new and alarming principle of party action, in order to defeat the nomination of Judge Daniel of the Supreme Court, with a lofty (not to say insulting) air, audibly bade “ good night ” to the majority, and marched out of the

chamber, with all his partisans at his heels!.. Look at the contagious influence of this example in Ohio. The waters of bitterness have gushed out from the high places of the nation, and no one can tell the length and breadth of the poisonous inundation. What occurred in Tennessee has no analogy. The case stands widely different in all its principles. If, however, anybody shall suppose that there *can* be the slightest resemblance, let it be remembered, that it cannot be unjust that he who poisons the cup should sometimes be compelled to quaff its deadly contents.

But I must conclude. Gladly would I have communicated all these things, and many more, by personal intercourse with you; but the indisposition of my family detaining me here for a while, some little attention to my private affairs, and the near approach of another session of Congress rendered it impossible.

Your obedient servant,

AARON V. BROWN.

WASHINGTON, September 15, 1842.

## ANNEXATION OF TEXAS.

IN THE HOUSE OF REPRESENTATIVES, }  
June, 1844. }

Mr. AARON V. BROWN said that he felt constrained to ask the indulgence of the House whilst he submitted a few observations personal to himself. The near approach of the adjournment compelled him to take this course as the only method of vindicating himself against a certain publication in yesterday's *Globe*. He was compelled to speak of it as a newspaper publication, because he could not, under the rules, refer to the debates in the other end of the Capitol. He begged leave to read the following paragraph from that paper:

"The war was expiring. The armistice, and the interposition of great powers, was bringing it to a close; and the day was at hand when the reunion of Texas would have come of itself, and with peace and honor, when this *insidious* scheme of *sudden and secret* annexation, and its *miserable pretexts*, was fallen upon by our hapless administration. From the moment that scheme, and its pretexts, *first revealed* itself to public view, at a public dinner in Virginia, in the *autumn* of the last year, I denounced it as an *intrigue*, *got up* for the *election* and to end in the *disgrace* of its authors, and in the defeat, delay, and embarrassment of the measure which it professed to desire. I particularly made this denunciation to the gentleman [Mr. A. V. Brown] who had got the letter from General Jackson in February, 1843, and who *seemed* to be *vicariously* charged with some *enterprise* on my humble self. It was at the commencement of the present session of Congress; I answered him on the spot; and, as I have no *concealments*, the gentleman referred to is at *liberty* to relate all that I said to him to the *whole* world."

Now, sir, (said Mr. B.,) I mean to make no reply to any portion of that publication but what relates personally to myself. The 'insinuation as to the "vicarious" character which I "seemed" to sustain in the conversation alluded to, is wholly

destitute of foundation. There is not one word of truth in it, whatever the impression of that senator [Mr. Benton] may have been at the time, nor the slightest pretext for it. The conversation referred to, was not confidential, nor held at any private interview between us. We casually fell in company, as members frequently do, in going to or from the Capitol to their boarding houses. We were walking on the public pavements, when the conversation chanced to turn on the subject of annexation. He advanced some of the opinions which he has since avowed in his speeches. The distance of our walk would not have allowed him to advance them all. He was vehement in denouncing the motives which had induced the President to bring forward the subject, and the secret influences which he believed had prompted him to do so. This latter suspicion, and the surprise which the general tenor of his remarks excited, (for I had never doubted that he would be warmly for it,) induced me to refer to my correspondence with General Jackson on the subject. I made this reference with the hope that, when he should learn that his great friend (General Jackson) was so intimately connected with the effort to acquire that fine country, he would pause and mature the subject well before he threw himself in opposition to the measure. Sir, up to that time I had never stopped to consider how the question would operate on the coming Presidential election; and my conversation had no reference whatever to its influence that way. It could not have had any such reference, for I was then a warm and decided friend to Mr. Van Buren's nomination, and had done much, in my own State and elsewhere, to suppress any movement calculated to prevent it. This single fact, known to hundreds, must forever exonerate me from the imputation of having aided or abetted, *vicariously* or otherwise, in getting up and sustaining this Texas movement for any political purposes.

Whatever part I have taken in getting it up, has been very humble and unimportant; but I am free to make it known to the world, and to defy any man or all men successfully to impugn my motives.

Early in the winter of 1842-'3, I became convinced that the affairs of Texas were coming rapidly to a crisis, and that she

must find some strong support, or she could not sustain herself to any advantage among the independent nations of the earth. Hence it naturally occurred to me, that the most favorable period would shortly arrive for its re-annexation to the United States. I saw the present administration peculiarly situated. A President without a party—nay, worse than that, a President between two great parties, seldom sustained by either, and often warred upon by both. Under such circumstances, I apprehended it might be difficult to prevail on him, however anxious he might be personally to do so, to enter on any great measure such as the acquisition of Texas. Influenced by these opinions, in January, 1843, I addressed a letter to Gen. Jackson, adverting to many or all of these circumstances, and expressing the belief that, if his opinions were still in favor of the measure, as I knew they formerly were, a clear and decided letter from him might be useful in rousing up or sustaining the administration in making such a movement. In the spirit of ardent affection and admiration, I expressed the desire that his name should be connected with a great achievement like that, and that it would be the crowning glory of his long and eventful life. I give the substance and not the words of the letter. I was so explicit as to the use I intended to make of his letter in inciting the administration to make the movement, that I think I desired him, if he was unwilling for it to be so used, not to write it. Sir, his reply was received. It was used, and I have reason to believe that it did much good in encouraging the President to enter on this great work. It has also been published to his countrymen; and I rejoice to see, every day, the good that it is accomplishing.

And now, Mr. Speaker, what is there in this simple narrative that should have called down on me the animadversion of anybody, especially of that distinguished Senator with whom I perfectly agreed as to a Presidential candidate, and for whom I had ever borne the highest testimony to his patriotism and talents. He speaks of absolving me of all secrecy, and kindly informs me that I am at liberty to state all that he said to me on that occasion. Sir, there was no secrecy, and nothing was said by him which he might not well be willing that the whole world should know. But, let me tell you, in that respect, I

stand on as high grounds as he does, and as proudly challenge every insinuation against either my motives or my actions. I have not arraigned his in any respect, neither ought he to have arraigned mine.

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A CARD.

My attention has been called to Mr. A. V. Brown's statement on the floor of the House of Representatives, in which he disclaims the vicarious character attributed to him in the affair of General Jackson's letter, and the conversation with myself, and in which he says, "*the conversation chanced to fall on annexation.*" This is a great mistake. There was no chance about it. Mr. Brown accosted me coming down the steps of the Capitol, and I returned his salutation with entire civility; when he immediately began with, glad to see me—wanted to see me—and commenced a talk upon Texas, as a thing of premeditation, and the evident cause of his wishing to see me. I, seeing the Texas movement then as I see it now—a scheme, on the part of *some* of its movers, to dissolve the Union—on the part of *some others*, as an intrigue for the Presidency—and on the part of *others*, (I only speak of prime movers, not the millions who follow,) as a land speculation and a job in scrip,—answered abruptly and warmly—he may tell what. But I never attributed to Mr. Brown any other agency in the movement than the vicarious interpellation above referred to; and, as to his and my Van Burenism being the same thing, I must beg to be excused. I knew that his would evaporate when and where it did, and said so to some friends; and I knew that mine would stand any test. The General Jackson letter always appeared to me to have been vicariously obtained; and nothing that Mr. Brown has now said, impairs, in the slightest degree, that first belief.

THOMAS H. BENTON.

SENATE CHAMBER, June 13.

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HOUSE OF REPRESENTATIVES, }  
June 14, 1844. }

MR. BLAIR: I have certainly no disposition to become conspicuous in any controversy with the Senator from Missouri, [Mr. Benton.] He took occasion, in the Senate, to indulge in some reflections on the part I had taken in relation to the annexation of Texas, which I felt it my duty to reply to on the floor of the House.

In his card of this morning, he again refers to the conversation between us in walking from the Capitol, and insists that it was not by *chance* that the conversation turned on the subject of Texas, because I expressed myself glad to see him, and was myself the *first* to give the conversation that direction. If the

Senator's recollection is clear on these points, I will not dispute them at all with him; for in those days I was ever glad to see him—to walk with him, and hear his conversations; and, as I have felt from the beginning great solicitude on the subject of Texas, I may have been the first to advert to it. But I again aver, that there was no such premeditation or design on my part, as he gratuitously attributes to me. But all this is not the question. Did I seek out that conversation, *at the instance of any other person*, and in the way of an "enterprise" on Colonel Benton? That is the precise question which I sought to meet by an unequivocal denial. I adverted to some facts which I supposed would confirm that denial, and convince Mr. Benton that he had done me injustice in the suspicion. But he is incredulous, and I am *indifferent*. He says (after naming the different lights in which he then and still views this Texas movement) that he answered abruptly and warmly, "he may tell what." I have already stated that his manner was vehement and denunciatory of the President and those under whose influences he supposed him to have been acting. But I did not suppose, of course, that any portion of *all* this was either aimed at General Jackson for writing his letter, or at me for corresponding with him on the subject; but to have been aimed entirely at others in the South, who might be supposed to be connected with the public dinner in Virginia. But I repeat, in justice to him, that he said nothing, now remembered, which he either has not since repeated, or might well be willing for anybody to know.

The Senator is mistaken (if he ever *can* be mistaken) when he supposes that I have anywhere said that his and my Van Burenism were the same. I only spoke in the positive, never in the comparative degree. My Van Burenism, I thought, at all times, was good; but I would have admitted, at any time, if he desired it, that his was better. Mine evaporated when I thought my duty to Democracy demanded it. His, I hope, has not lasted any longer than that. Col. Benton closes his card by saying: "The General Jackson letter always appeared to me to have been vicariously obtained." I have already stated the circumstances connected with the correspondence between

myself and General Jackson, and self-respect will allow me to make no further allusion to it for Col. Benton's satisfaction.

No man who knows anything of either my personal or political history, could be made to believe that I either could, or would, be willing to *practice* on General Jackson, under any sort of vicarious agency.

Beside this, it is now nearly eighteen months since that correspondence took place. General Jackson has followed it up by many letters to others. He has seen all that some of his best friends (Col. Benton among the number) have said, and can say, and yet *he* complains of no vicarious practices upon him. *He* can discover *no insidious schemes*, with all their *miserable pretexts*—no indelible stains of national dishonor, in these efforts to acquire the noblest country upon this continent. Having embarked in this great work, he is going on bravely with it. He would have been glad, I know he would, if Col. Benton could have thought it right to co-operate with him. But whilst he has never pretended to arraign Colonel Benton's motives for the course which he has doubtless felt it his duty to pursue, he and those friends who do co-operate with him are entitled to a like exemption from censure.

Respectfully,  
A. V. BROWN.

TO THE PUBLIC AT LARGE,  
*And to the Constituents of the Hon. John Quincy Adams in particular.*

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The apology for this address is to be found in the speeches of Mr. Adams at Boston, at Weymouth Landing, and at Bridgewater, in the State of Massachusetts. In these speeches he has assailed me with a wantonness and bitterness which can find no justification in any conduct of mine towards him. Whether addressing the young men of Boston, chiefly against General Jackson, or his constituents at Weymouth Landing against Mr. Charles J. Ingersoll, or at Bridgewater against President Polk, he repeats his abuse of *me* with a frequency and malignity, altogether discreditable to any man of his age and station in society. No language which the smallest degree of self-respect will allow me to use, can even approximate the grossness of the epithets which he has been pleased to employ on all the occasions to which I have referred. These speeches were so carefully prepared, and have been so extensively circulated through the public press, that I do not feel willing to let them pass off as the ravings of an irritable old man, whose infirmities are rather to be pitied than resented.

Mr. Adams is, indeed, venerable for his years; but he has not and will not retire from the strife of public affairs. He remains within the arena, a knight in full armor, clutching his spear, and assailing, with fiendish malignity, all who come near him. What right, then, has he to expect infirmities of senility to protect him from the blows and wounds of the tournament?

But I proceed at once to Mr. Adams's complaints against me.

This seems to be the publication of General Jackson's letter to me of February, 1843, in favor of the annexation of Texas. In his Boston address he sets out the whole letter; but takes the greatest exception to the following extract from it:

"Soon after my election in 1829, it was made known to me by Mr. Erving, formerly our Minister at the Court of Madrid, that, whilst at that court, he had laid the foundation of a treaty with Spain for the cession of the Floridas, and the settlement of the boundary of Louisiana, fixing the western limit of the latter at Rio Grande, agreeably to the understanding of France; that he had written home to our government for powers to complete and sign the negotiation; but that, instead of receiving such authority, the negotiation was taken out of his hands and transferred to Washington, and a new treaty was there concluded, by which the Sabine, and not the Rio Grande, was recognized, and established as the boundary of Louisiana. Finding that these statements were true, and that our government did really give up that important territory, when it was at its option to retain it, I was filled with astonishment. The right to the territory was obtained from France. Spain stood ready to acknowledge it to the Rio Grande, and yet the authority asked by our Minister to insert the true boundary was not only withheld, but in lieu of it, a limit was adopted depriving us of the whole vast country lying between the two rivers."

Mr. Adams, in commenting on this part of General Jackson's letter, inquires, "in what language of composure and decency, can I say to you that there is, in this bitter and venomous charge, not one single word of truth; that it is, from beginning to end, grossly, glaringly, and wilfully false?" What terrible words! and what a towering fit of passion seems to come over him at once! Surely this must be an entirely new and unexpected charge—one which Mr. Adams had never heard of before, and now hearing, is filled with honest and just indignation! But no such thing. It had been made against him as far back as 1820, and published to the world more than fifteen years before Gen. Jackson's letter was either written or published: not made against him then by Gen. Jackson, but by that man that once foisted him into the Presidency against the will of a betrayed and insulted people—by Mr. Clay, whose election he was trying to secure by these very speeches. From a letter written at Washington by Mr. Clay, dated 16th April, 1820, to a then friend in Kentucky, and published in the United States Telegraph of August 2d, 1828, I make the following extract:

"There is a rumor in the city which will astonish you, in regard to the conclusion of that (the Florida) treaty. It has been asserted by a member of Congress, as coming from high authority, that prior to the conclusion of the treaty, it was known to Mr. Adams that we could have obtained more than was conveyed to us—that is, that the Spanish negotiator was allowed by his instructions to grant us more, but that less was taken, because the Spanish Minister declared, if he went up to his instructions, he should be afraid of some personal injury upon his return home. What will you in the west think of the wisdom of that policy which consents to surrender an important part of our territory from such a motive?"

Here is the first charge made against Mr. Adams for surrendering up Texas in that negotiation. It was made by Mr. Adams's most especial friend—that friend to whom he stands solely indebted for the highest office which he ever filled. It was published in 1828; and Mr. Adams's eyes have doubtless met it a thousand times. Does he deny it? Did he get up at Boston and deny it—at Weymouth Landing, at Bridgewater, or anywhere else? No, never, that I have heard of. Did he give Mr. Clay the lie for uttering it, as he has done General Jackson? Mr. Clay was then his Secretary of State, living daily on his bounty. Did he send for him and say to him, You have slandered my good name—you have ruined the inheritance of my children, and you must leave my cabinet immediately? No such thing. This new cause of quarrel, like the old question of veracity, was adjourned over to some period more propitious to calm investigation.

Mr. Clay, then, was Mr. Adams's *first accuser* of dereliction of duty in the negotiation of the Florida treaty. He accuses him by *name*—on the authority of a *member of Congress*, who is said to have got it from one *high in authority*. He states in his letter that it was *known* to Mr. Adams that we could have obtained *more than was conveyed to us*. He was writing on other subjects, but *stepped aside* to denounce Mr. Adams for surrendering an important part of our territory from improper motives.

Contrast the time and circumstances under which General Jackson alluded to the same dereliction of duty. He was writing on the re-annexation of Texas; the manner in which it had been lost lay directly in his way. Mr. Adams's name is not mentioned, and the whole matter is alluded to with a forbearance not to be observed at all in Mr. Clay's letter.

I do not pretend to insist that the silence of Mr. Adams, under the charges of Mr. Clay, was conclusive evidence of his guilt; but I do maintain that after he has submitted to it uncomplainingly for so many years, he has no right to *affect* such horror at its repetition in a more gentle form by Gen. Jackson, nor to pour out upon him, nor upon myself, for publishing it, such a torrent of vulgar epithets and billingsgate abuse. What ought he to have done? What would all men have been glad to see him do on the appearance of General Jackson's letter to me? He ought, if innocent, to have addressed the public, stating that Mr. Clay had made this accusation first against him; that he perceived that General Jackson had fallen into the same error; and then have produced the evidence of his innocence. He saw, on *the face* of General Jackson's letter, that his information was derived from Mr. Erving, that it was communicated in *writing*, and that that writing was in my possession. Calling on me, he could have inspected Mr. Erving's communication, and thus ascertained whether General Jackson or Mr. Erving was to be censured for the accusation. Such a course would have been obvious enough to anybody but to John Quincy Adams. Instead of pursuing it, he preterms his friend, Mr. Clay, altogether; pours out all his malignant fury on General Jackson, and falsely (not to say meanly) asserts that Mr. Erving's communications "have been carefully suppressed from the public, and from any access to them by me." Did he ever ask either myself or Mr. Ingersoll for an inspection of them? Did he request any copy of them, of either Mr. Ingersoll or myself? How, then, could he venture to say they had been suppressed from any access to him?

But let us take another step in the examination of this subject. Mr. Adams seems especially displeased with me for a note which I caused to be appended to General Jackson's letter, which he quotes as follows:

"That this boundary (the Rio del Norte) could have been obtained, was doubtless the belief of our Minister in Spain; but the offer of the Spanish government was probably the Colorado—certainly a line far west of the Sabine."

Why he should have been so much displeased with this note, is difficult of explanation. If General Jackson's letter accused him of *too much*, this note lessened the amount. It was, there-

fore, *mitigatory* in its purposes and tendency, and bore no marks indicative of a disposition to assail him. I had requested the opinions of Gen. Jackson on the subject of our acquiring a fine and noble country. I wanted these opinions to rouse up and sustain the administration of Mr. Tyler in making the attempt. But no part of that purpose was to prejudice Mr. Adams. He was not in all my thoughts. It is a little singular, on this part of the case, that a distinguished Senator of this country should think my object was to ruin Mr. Van Buren, whilst Mr. Adams is sure it was to destroy him. Both gentlemen are equally mistaken. I knew General Jackson was writing in the absence of Mr. Erving's communications, after the lapse of many years; and as he had put the communication at my disposal, I was sure that he would take no exception to any correction of his statements which an examination of the papers might furnish. I looked into them sufficiently to be satisfied that General Jackson was substantially correct in reference to the Erving statements, with, as I supposed, one solitary exception; that was in his having used the words Rio Grande, instead of the Colorado. Whether he had so mistaken the names, was not a matter of close examination and scrutiny; it was enough for me that it seemed somewhat doubtful. I gave the benefit of that doubt to Mr. Adams, thereby diminishing the amount of country surrendered, by so much as lay beyond the Colorado. Does this look as if I had joined in a base conspiracy against an individual (Mr. Adams) for as profligate a public purpose as appears on the pages of history? His perpetual reiteration of complaint on this point induces the belief that the true cause of his displeasure arises from the fact that, by the correction, I cut him off from the only quibble on which he expected to defend himself against either the charges of Mr. Clay or General Jackson. He knew that he had made a bad treaty, when he might have made a much better one—that he had surrendered the whole, when he might have saved at least two-thirds of that noble country. In other words, that he had taken the Sabine, when he might certainly have gotten to the Colorado; and hence it offends him so much that I should have corrected the probable mistake of General Jackson, in saying the Rio Grande, instead of the Rio Colorado, thereby cutting him off from all plea and apology for

thus sacrificing the South, and dismembering his country: For I now maintain the opinion confidently, that, with the correction of my note published with it, and thereby made a part of it, so far as it was accusatory of Mr. Adams, the statements made both by Mr. Clay in 1820, and General Jackson in 1843, are fully and substantially sustained by the communications of Mr. Erving and other concurring testimony.

Mr. Adams proves it himself—out of his own mouth; at least under his own hand and signature; aye, Mr. Adams proves his own guilt, in his letter to Mr. Forsyth. He says: "It is too well known, and they (the Spanish government) will not dare to deny it, that Mr. Onis's last instructions authorized him to concede much more than he did; that those instructions had been prepared by Mr. Pizarro; that, after the appointment of Marquis de Casa Yuijo to the ministry, they were by him submitted to the King's Council, and, with their full sanction, transmitted to Mr. Onis; that, both in relation to these grants of land in Florida, and to the western boundary, the terms which he obtained were far within the limits of his instructions." Now, here is proof, direct and positive, covering the substance of the charge against him. It comes from under his own hand, and seals his lips forever against denying the charge of Mr. Clay and General Jackson. He says, officially and expressly, that "both in relation to the grants of lands in Florida and *the western boundary*, the terms which he (Don Onis) obtained were *far* within the limits of his instructions." And yet, in the face of this letter, he tells his constituents at Boston (who ought never to excuse him for the imposture) that "when, in 1819, I wrote to Mr. Forsyth that we knew that Mr. Onis could, without violating his instructions, have conceded more than he did, *it was not in reference to the western boundary*, but to the grants of lands by the Spanish government." What inveterate obstinacy! what unblushing falsification of his own letter! Well, I now produce the letter. It says expressly, "both in the grant of lands *and the western boundary*;" whilst in his speech he declares to his young friends at Boston, "*it was not* in reference to the western boundary." I hold up both of these pictures before the young men of Boston; and, if they do not see a direct, positive, and palpable *inconsistency*, not to

use a harder term, then I shall conclude they are *young* indeed ! This covers the very point in controversy. It is the very substance and marrow of both Mr. Clay's and General Jackson's charge against him. Mr. Clay says : " It was *known* to Mr. Adams that we could have obtained more than was conveyed to us ; that is, that the Spanish negotiator was allowed by his *instructions* to grant us more," &c.

Well, Mr. Adams, being his own witness, proves that not only did *he* know, but that the then Spanish Minister knew, and *dare* not deny, the same fact. Little did Mr. Adams think that he would have himself to *dare* in 1844, what he said the Spanish ministry *dare not do* in 1820.

But I will advert to some further admissions of Mr. Adams, of a most extraordinary character. In his 'Boston speech, he tells his *young* friends that " the powers, however, transmitted to Mr. Onis, were not at first sufficient to bring the negotiation to a successful close. They were from time to time enlarged, until Mr. Hyde de Neuville, the French Minister, told me that he had seen them, and they were unlimited ; and Onis himself told me that he could cede *all Mexico*, but added, I might be well assured he would not do that."

A little further on, in the same speech, Mr. Adams says :

" Mr. Onis published a pamphlet for his own vindication, (about the Florida treaty,) and to justify himself, took *our* ground in the controversy, and insisted that all that he had obtained within the line of the Rio del Norte, was a *cession* by the United States to Spain. *He did not pretend that his instructions would have warranted him in conceding more.*"

Take this statement of Hyde de Neuville and of Don Onis, as furnished by Mr. Adams himself, and who can doubt that the Spanish government had, at last, though reluctantly, come up in their instructions to our own claim of boundary to the Del Norte. De Neuville says he had *seen* them, and they were *unlimited*. Don Onis declared he could convey all Mexico, if he chose to do so. Well, in this connection, let me now present you with the statement of James W. Breedlove, Esq., formerly Vice Consul at New Orleans for the Republic of Mexico. The statement it contains is quite as satisfactory as the statements relied on by Mr. Adams as to the extent of the powers given to the Spanish minister :

"WASHINGTON CITY, April 9, 1844.

"I was the Mexican Vice Consul for a portion of the years 1829, 1830 and 1831. In the course of the latter year, Senor Don Martinez arrived at New Orleans from Mexico, bringing with him the commission of Mexican Consul, and instructions from the Mexican government to me, directing the consulate to be handed over to him. The numerous consultations necessarily occurring, brought about an intimacy between Don Martinez and myself, which was continued up to the time that he was appointed Minister from Mexico to this government. In the course of our free and frequent conversations, the subject of the Florida treaty of 1819 was often introduced. In the course of those conversations, Senor Don Martinez informed me that he was Secretary of Legation to the Spanish embassy to this government at the time that the Chevalier Don Louis De Onis was the accredited Minister; that he enjoyed that Minister's full confidence, and had a full knowledge of his instructions from the King, their master; that Don Onis was instructed to negotiate a treaty which, if necessary and demanded, should fix the *Rio Bravo Del Norte* as the western boundary line; that, in opening the negotiation with Mr. Adams, the American negotiator, he claimed the Sabine as the boundary line, but without any expectation of its being agreed to; but, upon finding that it was not very strenuously objected to by Mr. Adams, he pressed the claim to that line, and succeeded in establishing it in the treaty. Don Martinez spoke of it exultingly, as having obtained an advantage in the treaty beyond anything which his government expected; and the result was, that it had secured a large and valuable country which had fallen into the possession of the Republic of Mexico. These conversations were frequently held, and were not considered confidential by either of us; and, accordingly, I have frequently retailed them in New Orleans, and recently here.

JAS. W. BREEDLOVE."

Here I might rest my defence, and that of General Jackson, against any imputation made by Mr. Adams. . But as he has in his speeches declared Gen. Jackson's statement to be false—grossly, glaringly, and wilfully false, and that I knew them to be so when I published his letter, I must beg to be indulged in a further examination of the *particulars* which make up this wholesale and vulgar denunciation. He says they are false even in the *name* of the individual from whom the information is pretended to be derived. Here he resorts to a contemptible criticism on the spelling of the name of our then Minister to Spain. General Jackson writes it *Erwin*, instead of *Erving*; and this is made the foundation of one of his charges of falsehood. But what would he think if I were to greet him with the vulgar epithet of liar and slanderer, by telling him that Mr.

Aaron *Vail* Brown never did receive or publish any letter from General Jackson accusatory of him; that it was Mr. Aaron *Venable* Brown? But no matter about that. He proceeds to deny that Mr. Erving ever did make known to General Jackson any such facts as his letter asserts that he did. Let it be borne in mind that General Jackson never did come forward as the accuser of Mr. Adams of dereliction of duty in negotiating the Florida treaty; nor did I ever present any letter of his in that light. He pretended, on the face of his letter, only to give the information (from memory) which he had received from our Minister in Spain. If that information was correct, it was then a question only between Mr. Adams and him. What that information was, has been concealed neither from Mr. Adams nor the public. All the material and important parts of that statement appeared during the last spring in the Richmond Enquirer, with comments, over the signature of "Randolph of Roanoke," written by one of the most vigorous writers of the age. To these I must necessarily refer (for they are too long for insertion here), all who have a single doubt on the subject under examination. I must beg permission, however, to insert the following:

"The next confirmatory testimony I shall offer, is that of Mr. George W. Erving (the former Minister to Spain) himself. If I am rightly advised, he indignantly threw up his commission soon after he was apprized of the terms of the treaty, and before its ratification by Spain, and was in Washington about the date of Mr. Clay's letter. In the statement he afterwards drew up in relation to that treaty, and presented to General Jackson, he places Mr. Adams in a most unenviable position. From this document, now before me, I will furnish you from time to time with copious and pungent extracts; but for the present I have only leisure to quote the following summary, which seems germane enough to the matter in hand. Commenting on Mr. Adams's conduct, he says:

"He had a *distinct proposal* from Pizarro, (the Spanish Secretary for Foreign Affairs) 'of a boundary between the Sabine and the Colorado. He had *repeated assurances* from the Minister of the United States at Madrid, of the earnest disposition of the Spanish Minister to conclude a treaty there. He had abundant proofs of that Minister's sincerity, and finally of his *UNEVOCAL INTENTION TO AGREE ON THE COLORADO AS A BOUNDARY, ON THE TERMS PROPOSED BY THE AMERICAN MINISTER.*

"With all this *before him*, Mr. Adams agreed with Onis on the Sabine a limit, thus ceding to Spain the whole of the territory in that quarter, which

she pretended to have any right to possess; ceding, indeed, every inch of that territory that the United States had power to cede—since the territory as far as the Sabine was actually in possession of, and made part of the State of Louisiana."

Mr. Adams, in his Boston address, attempts to account for the strange conduct here attributed to him, by throwing the blame on Mr. Monroe. He says that if Gen. Jackson had given an opinion against the western boundary as agreed on in the treaty, Mr. Monroe would still have persisted in making the offer. He was earnestly intent on the acquisition of the Floridas, and of indemnity for the spoliations, "and was more than indifferent to any acquisition west of the Sabine." How strange, how incredible the story! Indifferent, and more than indifferent, (hostile, we must suppose,) to any acquisition west of the Sabine! Why, then, all that tedious and protracted negotiation with Spain about it? Why did he not instantly command Mr. Erving to give over further negotiation about the Colorado and the Rio Del Norte, and close on the Sabine immediately? Nay, more; why did he not tell Mr. Adams, negotiating right at his door, to give it up at once, falling back in his claim on the western boundary of Louisiana? Why, let me ask, was not this incredible story told *in the life-time of Mr. Monroe?*

Mr. Adams had been accused and severely censured in his life-time; yet Mr. Monroe never stepped forward, with the noble frankness of his nature, to relieve his persecuted Secretary.

Nay, still more: such a defence becomes totally inadmissible since the publication of Mr. C. J. Ingersoll's reply to the repeated assaults of Mr. Adams. In that reply he inserts a letter written by Mr. Adams to Mr. George Graham, dated the 2d June, 1818—mark the date, how nearly to that of the treaty—written, too, *by the order of Mr. Monroe*, in which we find the following:

"The President wishes you to proceed with all convenient speed to that place, unless, as is not improbable, you should, in the progress of the journey, learn that they have abandoned or been driven from it. Should they have removed to Matagorda, or any other place north of the Rio Bravo, and within the territory claimed by the United States, you will repair thither, without, however, exposing yourself to be captured by any Spanish military force. When arrived, you will, in a suitable manner, make known to the chief or

leader of the expedition your authority from the government of the United States, and express the surprise with which the President has seen possession thus taken, without authority from the United States, of a place within their territorial limits, and upon which no lawful settlement can be made without their sanction. You will call upon him explicitly to avow under what national authority they profess to act, and take care that due warning be given to the whole body that the place is within the United States, who will suffer no permanent settlement to be made there under any authority other than their own."

On this letter, Mr. Ingersoll justly remarks :

" Thus it appears that in June, 1818, at the very time when the Florida treaty was in full negotiation, the United States extended, (with all Mr. Monroe's indifference,) not to the Sabine only, where Mr. Adams put a stop to them—not only to the Colorado, where Mr. Erving thinks it would have been easy to have settled their limits—nor yet even to the Bravo, the uttermost claim of northern Texas ; but even north of it, which must have carried Louisiana far beyond those ancient Santa Fe settlements, of which Colonel Benton has spoken so emphatically in his recent speeches—Thomas Hart Benton, as Mr. Adams, with precision, denominates that gentleman, *somewhat infected*, saith Mr. Adams, with the thirst for Tex-ass, which has become an epidemic fever raging to a great extent.

" Now, the argument of all Mr. Adams's denunciation of General Jackson, of Mr. Tyler, of Mr. Polk, of Mr. Calhoun, of Governor McDuffie, of Mr. Brown, of Mr. Erving, and of me, the whole argument of not less than a volume of print, the result of all his midsummer's night dreams, is that the United States had no right to Texas beyond the Sabine; that they made no claim to Texas to the Colorado; that they never dreamed of Texas as far as the Bravo; and that as to the Santa Fe settlement on the north of that river, it would have been the grossest injustice and absurdity to make any pretension to them. Mr. Adams has been in the habit, I have understood, of terming General Jackson a Tennessee barbarian. In his Braintrees philippics, the General's double-dealing, imposture, folly, ignorance, profligacy, mendacity—in a word, his *villany*—in this Texas affair are painted in the blackest colors. He is called Tiberius Cæsar, Louis XI of France, Ferdinand the Catholic, of Spain; robber, thief, hickory hero, and the like; Medusa with a gorgon's head; Ate, hot from hell; Alaric, the pest of nations; Attila, the scourge of God, are conjured into Adams's jargon, the whole strain of elaborated allegation, with what he pronounces overwhelming proofs, that, as Texas never did belong to the United States, and never was claimed by them, it was monstrous injustice to Mexico for General Jackson, by what Mr. Adams calls his *God-defying villany*, to rob that country from Mexico; and it is monstrous traduction of Mr. Adams for General Jackson to express his *astonishment* that our government gave it up by the Florida treaty. General Jackson is expressly compared by Mr. Adams to a horse-thief for doing so; and setting forth the defence of this horse-thief, as Mr.

Adams said he heard him make it in Boston, he pronounces it a much better justification for stealing the horse than General Jackson has for what Mr. Adams calls stealing Texas from Mexico. What are we to think, then, of the statesman, or honest man, or any man, who, after spending a whole summer, with his unquestionably superior advantages, and the best opportunities of making good his case, is thus easily convicted, by the records of his own department, by a letter under his own signature, every line of which bears intrinsic evidence of Mr. Monroe's wary patriotism, and of Mr. Adams's peculiar diplomacy? And what shall we say of that sting at a benefactor who warmed him in his bosom, when Mr. Adams writes of Mr. Monroe that he was *more than indifferent* as to Texas—Mr. Monroe, whom Mr. Adams hides behind, to cover him from the charge? 'Write a letter of instructions,' said President Monroe to Secretary Adams, 'to Geo. Graham, to hasten forthwith to Texas. Let him make his first stopping-place at Galveston, *far beyond the Sabine*; thence let him follow the intruders to Matagorda, which is at the mouth of the Colorado; if he does not find them there, let him go to the Bravo; and if there, or at any other place to the *north* of it within the territory claimed by the United States, make known that no settlement can be made there without their sanction, for the place is *within the United States*, who will suffer no settlement other than *their own*.' Is this the language of a President who was *more than indifferent* as to Texas? Is this the memory Mr. Adams should sully for want of patriotism? Far beyond San Antonio, reaching almost to Matamoras and Monterey in the south, to Albuquerque and Santa Fe in the north, Mr. Monroe insisted that neither Frenchman nor Spaniard, nor Don Onis, the representative of the King of Spain, nor the Viceroy of Mexico, nor Joseph Bonaparte, should be suffered to put a foot, nor any other, without authority from our government. Yet does Mr. Adams not only take high umbrage at any expression of astonishment that he should, six months after, have surrendered all those magnificent regions, but he denounces as worse than a horse-thief the President who reclaimed them, and lashes as a rascal round the world the individual who ventures to publish Mr. Erving's argument, that at least as far as the Colorado, we might, by the Florida treaty, have established our title to Texas, if not to the Bravo."

There is but one other topic discussed by Mr. Adams in these various speeches to his constituents, which I desire to notice, and with that I shall close this address. I allude to his allegation, formerly as well as now made, that the Florida treaty was shown to General Jackson, and that he approved of it. Much has been said on this subject by several of the newspapers of the day, particularly by the *Globe* and *Kendall's Expositor*. There is, in the latter, a review and exposure of all that Mr. Adams has said on this point, so direct and lucid that I

submit it to your consideration, with the solitary remark, that I have no faith nor confidence in the alleged diary of Mr. Adams. He did not and would not produce it at the proper time, when everything he ought to have held dear to him was at issue. If genuine, it does not sustain him; if a forgery or subsequent fabrication, it is another melancholy proof that great attainments are not always accompanied by virtue.

From Kendall's *Expositor*.

The *National Intelligencer*, of the 12th instant, contains a long address of John Quincy Adams, delivered "at a meeting of the Boston Whig Young Men's Club, on the evening of the 7th instant," defending his own course in the negotiation of 1819, when Texas was ceded to Spain, and assailing General Jackson in no measured terms.

On its face this prediction bears evidence that while the snows which rest around the temple of this aged man have, in some degree, paralysed his mental powers, they have but kindled the fires of his malignant heart into a brighter flame. The diabolical spirit which breathes through this address, presents to the imagination a hoary-headed sinner sinking unrepentant into the grave, already beginning to feel the pangs of "that death which never dies," and attempting, with impotent rage, to hurl back upon a fortunate rival, whose success has been his disgrace, and whose glory his shame, a portion of that fire with which he is already tormented.

"Grossly, glaringly, wilfully false."—Such are the epithets this "arch angel fallen" bestows upon statements of Andrew Jackson, and attempts to show it by counter-statements, in themselves "grossly, glaringly, and wilfully false," capping the climax by proving his own mendacity.

"At some time more propitious to calm consideration," as Mr. Clay said when he promised to expose Mr. Adams's conduct at Ghent, we may, if some one else does not, make a formal reply to this long-studied and most wicked tissue of petty malignity, false assertion and shameless misrepresentation. For the present, we shall content ourselves with proving *Mr. Adams a liar by his own testimony!*

On the 7th of May, 1836, while a discussion involving the treaty of 1819 was going on in the House of Representatives, Mr. Adams is thus reported, via:

"He mentioned also another fact: the present chief magistrate of the United States being in the city at the time, Mr. A. was directed to take the treaty to him and ask his opinion about it, and it was approved of by that gentleman."

On being applied to for information on the subject, President Jackson said he had no recollection of having been consulted, and thought Mr. Adams must be under some mistake. This was stated in the *Globe*. Mr. Adams noticed the statement in

the House, repeating the assertion with minute particulars, and with his own hand revised the report of his remarks for publication. From that revised report we take the following extract, viz :

"The treaty was signed on the 22d February, 1819, and he presumed it was in the recollection of many members of the House, that Gen. Jackson was at that time in this city, as that was the celebrated session during which his proceedings in the Seminole war were subjects of deliberation in both Houses of Congress ; and General Jackson was here during the consideration of that subject, and was here at the time of the conclusion of the treaty.

"But to come to the precise point. After the treaty had been framed, and ready to receive the signatures of the contracting parties, but before there was any obligation upon our part to sign it, by the express direction of Mr. Monroe, he (Mr. A.) took the treaty, drawn up as it was, to General Jackson, not as to the military commander of the army of the United States, but as to a highly distinguished citizen of the United States, whom, being here at the time, the then President of the United States thought proper to consult upon a subject of such great importance. He took the treaty to him at his lodgings, which were in a house at that time kept, he believed, by Mr. Strother. He took and delivered that treaty into the hands of General Jackson, with the particular request from Mr. Monroe, that he would read it over, and give his opinion upon it. He would state further, that General Jackson kept the treaty some time, possibly not more than one day, but he kept it a sufficient time to form a deliberate opinion upon it, and that he (Mr. A.) called upon him after a day or two, and that he returned the treaty with his approbation of that particular boundary."

The Globe replied to this specific statement, and proved it false in all its circumstances by the following testimony, viz :

By an official note from Mr. Adams to the Spanish Minister, dated 13th February, 1819, it was shown that a counter-project for a treaty was that day sent to that Minister.

By an official note from Mr. Adams to the same Minister, dated 19th of February, 1819, it was proved that "a copy of the treaty, as definitively drawn up and acceded to by the President," was then sent; "several of the modifications proposed on the part of Mr. de Onis" having been agreed to.

By extracts from the National Intelligencer, dated the 23d and 25th February, 1819, it was proved that the treaty was communicated to the Senate on the 22d February, and was unanimously ratified by that body.

By an extract from the National Intelligencer, it was proved

that General Jackson left Washington on a tour to the North on the 11th February, 1819.

By extracts from the Baltimore Patriot, Philadelphia Franklin Gazette, New York Columbian, and Niles' Register, it was proved that he arrived in Baltimore on the evening of the 11th; that he left Baltimore for Philadelphia on the morning of the 14th; that he arrived in Philadelphia on the evening of the 18th; that on the 20th he arrived in New York; that on the 22d he visited the navy-yard at Brooklyn; that on the 23d he was honored with a public dinner in New York; and that on the 27th he was expected in Baltimore on his return to Washington, although he had not arrived when Niles' article was written.

Thus was it established, beyond controversy, that while the treaty was still passing between the negotiators in projects and counter-projects, General Jackson left the city, and did not return until it was agreed upon, reduced to form, signed, sent to the Senate, and ratified. It was evident, therefore, that Mr. Adams's story, garnished off with so many particulars to make it plausible, was a sheer fabrication. He could never have shown the treaty to General Jackson at all; for the General was not at Washington after it was put in form until it was ratified.

The *old man malignant*, notwithstanding this exposure, persisted in saying that he was substantially correct, referring to his *diary* for proof, but stating that it was not in the city, and he could not then quote from it.

After eight years silence, he has had the hardihood to publish extracts from the diary; and what do they prove? *They prove, as clear as day, his own reckless fabrication and falsehood!* Read them:

“ **MONDAY, Feb. 1, 1819.**—Called upon the President, and had a conversation with him upon this renewal of negotiation with the Spanish minister. There are various symptoms that, if we do come to an arrangement, there will be a large party in the country dissatisfied with our concession from the Rio del Norte to the Sabine, on the Gulf of Mexico. He desired me to see and converse with General Jackson on the subject, and to ask confidentially his opinion.”

“ **FEBRUARY 2, 1819.**—I called on General Jackson, and mentioned in confidence to him the state of the negotiation with the Spanish minister

and what we had offered him for the western boundary, and asked his opinion of it. He thought the friends of the administration would be satisfied with it, but that their adversaries would censure it severely, and make occasion for opposition from it. He thought even that it would bring us again in collision with the Indians, whom we are removing west of the Mississippi. But as we had no map at hand, I could not give him a precise idea of the proposed line, by mere description, and he promised to call at my house to-morrow morning at ten, and look it over upon the map."

FEBRUARY 3, 1819.—General Jackson came to my house this morning, and I showed him the boundary line which has been offered to the Spanish minister, and that which we propose to offer, upon Melish's map. He said there were many individuals who would take exception to our receding so far from the boundary of the Rio del Norte, which we claim as the Sabine, and the enemies of the administration would certainly make a handle of it to assail them; but the possession of the Floridas was of so great importance to the southern frontier of the United States, and so essential even to their safety, that the vast majority of the nation would be satisfied with the western boundary, as we propose, if we obtain the Floridas. He showed me on the map the operations of the British force during the last war, and remarked that while the mouths of the Florida rivers should be accessible to a foreign naval force, there would be no security for the southern part of the United States."

*Reader, now look back, and see what Mr. Adams asserted in 1838.*

He said Gen. Jackson was in Washington at the time the treaty was concluded, which was on the 22d February, 1819. The extracts from his diary show that he was here on the 1st, 2d and 3d of February.

He asserted that, "by the direction of Mr. Monroe, he took the treaty, DRAWN UP AS IT WAS, to General Jackson, &c." The extracts prove that he took no treaty to General Jackson at all, and showed him no paper concerning it, except Melish's map!

He asserted, that "he took the treaty to him at his lodgings, which were in a house at that time kept, he believed, by Mr. Strother." The extracts prove that he took neither treaty nor paper to him—not even Melish's map.

He asserted that "he took and delivered that treaty into the hands of General Jackson." The extracts prove that he neither took nor delivered any such paper, or any other paper.

He asserted that General Jackson kept the treaty some time—possibly not more than one day; but he kept it a sufficient time to form a deliberate opinion upon it. The extracts show, that

he never kept the treaty, not even "possibly" for one day.

He asserted, "*he called upon him* [General Jackson] *after a day or two.* The extracts show that General Jackson called on Mr. Adams.

He asserted that General Jackson then "*returned the treaty.*" The extracts prove that he had no treaty to return.

Finally, Mr. Adams brings this tissue of fabrications, shown to be such by his own evidence, to a close, by asserting that General Jackson "*returned the treaty with his approbation of that particular boundary.*" The extracts show, not only that this assertion is not true, but that it is the reverse of truth.

Reader, look back and read again the extracts from Mr. Adams' diary: Is there a word in them approving the Sabine as our western boundary? NOT ONE WORD. On the contrary, he makes General Jackson say, "*He thought even that it would bring us again in collision with the Indians whom we are removing west of the Mississippi.*" This is so worded as to show that it was part only of an argument used by General Jackson against that boundary. He thought "*even*," or he thought *also*, showing that some other objection had preceded. In the last interview, General Jackson is made to discuss the importance of Florida, and to say that, in case it were obtained, "*the VAST MAJORITY OF THE NATION would be satisfied with the western boundary as we propose.*" Not a word as to HIS being satisfied; not a word showing that he approved, or would ever agree, were he President, to give up Texas even for Florida. *And is there a man living who believes that he would?*

These extracts, therefore, show that Mr. Adams was as wickedly false in the main question, as he was in the artful web of circumstances, woven out of his own imagination, to give his assertion point and weight. His diary does not show that General Jackson approved the Sabine boundary; but as far as it gives his individual views in that respect at all, shows that he disapproved it.

There is another circumstance connected with this transaction which makes us look upon this man with perfect loathing. The first extract from his diary shows that he was directed by President Monroe to ask General Jackson's opinion "CONFIDENTIAL."

DENTIALLY." The second shows that he did consult him, "IN CONFIDENCE." He was the mere agent of the President, bound, by every obligation of honor, to keep in confidence what was committed to him in confidence. What right had he to put on his diary what was committed to him by the President in confidence, or received from General Jackson in confidence? Making a record of that which ought to have died with him unless disclosed by the consent of parties, was itself a breach of confidence, and a betrayal of trust. The man who keeps a "diary" of confidential communications, or even of private daily conversations, is a spy upon society, and a traitor in heart. He who will pencil down the casual expressions of his friends and visitors, and lay them aside, felicitating himself on the use he may make of them thereafter for his own benefit or other's injury, is fit only for an assassin, and should be driven out of society. We would as soon associate with one whom we knew had a dagger under his cloak, ready to stab us when he wanted our purse, and could get us by the throat. But such a man Mr. Adams has proved himself to be. Shame to those who once made him President! In his "Volumes" of Diary he has a *store* of daggers for all who ever gave him their confidence or conversation.

But if a man be warranted in transferring to paper the confidence reposed in him expressly or implicitly, and thus endanger its exposure by his death or other accident, is he at liberty, years afterwards, without the consent of the parties trusting him, to make use for it to his own advantage? In this matter, all Mr. Adams knew of General Jackson's opinions was, according to his own showing, obtained in confidence. When, in 1836, he undertook to speak of General Jackson's opinion, he had obtained the consent of neither the General nor Mr. Monroe, releasing him from his word of honor, nor had either of them assailed him so as to furnish the pretext of self-defense. If, therefore, Mr. Adams' dairy had contained all he said it did, he would, for divulging it under such circumstances, have been a traitor to every principle of honor held sacred among men. But *what measure of infamy* belongs to the man who notes down what passes in confidence between him and his friends, and becoming afterwards estranged, makes asser-

tions avowedly upon the faith of this contemporaneous record which find not the least countenance in its language or its sentiments? Let mankind give the verdict, and faithful history record it.

AARON V. BROWN.

WASHINGTON, D. C., December 14, 1844.

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### THE FLORIDA TREATY.

*From notes furnished by Gov. A. V. Brown.*

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*To the Editors of the Richmond Enquirer:*

WASHINGTON CITY, February 2, 1845.

*The Florida Treaty—General Jackson and Mr. Adams—The New York Courier and Enquirer—Samuel S. Governor, Charles J. Ingersoll, and A. V. Brown.*

Every intelligent man in the United States is well aware that the treaty of 1819, which secured the Floridas and lost us that part of Louisiana known as Texas, was negotiated by John Quincy Adams as Secretary of State; on the part of our government, and Don Louis de Onis, the envoy of Spain; and it is equally known by those who have investigated closely the correspondence which took place between those two diplomatic functionaries, on the part of their respective Governments, that Mr. Adams could have secured for the United States a much better treaty than the one which was negotiated; as will be seen by reference to the communication of Mr. Erving in 1829. But, Don Onis, who was a man of great diplomatic powers, saw that Mr. Adams was not very particular as to boundary, and he took advantage of it, and secured to Spain, independent of other pecuniary advantages, a territory of more importance than the one she lost. In the face of these historical reminiscences, and particularly at this juncture, when the lost territory is anxious to re-annex itself to us, to secure

to her citizens that liberty and independence which had been guarantied to them by the treaty with France, and who had been alienated by a blundering piece of diplomacy, which was inconsistent with the letter and spirit of the Constitution, so boldly and beautifully asserted by the Hon. Wm. H. Hammett, in his speech upon the question of annexation; the Hon. John P. Kennedy, in his puny efforts to establish for himself a reputation as a statesman and a man of talents, and to shield Mr. Adams from the imputation of having lost sight of the true interests of his country in that negotiation; and being controlled by sectional and geographical feelings rather than those which should belong to a statesman of enlarged views, reiterated the assertion of Mr. Adams, made up from his celebrated diary, which had been sleeping silently ever since, that General Jackson gave his assent to the treaty of Florida before it was negotiated; and that it was submitted to him by Mr. Adams, for an expression of opinion. He said, if the friends of Gen. Jackson denied this assertion, the evidence was in the possession of one of the legal representatives of Mr. Monroe's family, (Samuel S. Governeur,) in a correspondence between Gen. Jackson and Mr. Monroe, which established the facts as stated by Mr. Adams, and recorded in his diary. As a friend of Gen. Jackson, whose fame is the common property of his country, I boldly proclaim, that the assertion of Hon. Mr. Kennedy is not warranted by the facts; and unless he establishes what he asserts, even by his volunteer witness, (Samuel S. Governeur,) who received the lucrative appointment of Postmaster at New York from General Jackson, in consideration of his connection, by marriage, with Mr. Monroe, that he, for veracity, will be placed in the same category with Mr. Adams upon this subject. Upon the mere *ipse dixit* of this Don Quixotte, the New York Enquirer of January 18th, said that General Jackson was in an "unfortunate dilemma, by denying the assertion of Mr. Adams, that he approved of the treaty of 1819, at the time of its adoption." It farther stated, "that Messrs. Charles J. Ingersoll, A. V. Brown, and the Globe, had not hesitated to accuse Mr. Adams of forgery, in order to repel his assertion, sustained as it was by his diary." These extracts show the New York Enquirer's own statements, based upon the authority

of Messrs. Adams and Kennedy, of *the issue* between General Jackson and Mr. Adams. What is it? That Gen. Jackson was consulted before the presentation of the treaty to Don Onis for his signature, and that he approved the Sabine as the boundary. General Jackson has denied emphatically all remembrance of the alleged call of Mr. Adams on him, or himself on Mr. Adams, and also, that he ever received the treaty, or returned it, as stated by Mr. Adams, with his approbation of that particular boundary. This issue was made many years ago. In the course of the past year Mr. Adams revived it, and General Jackson met it, in his letter of October 22d, 1844, in the following language:

"I say, in advance of the review I shall take of this extraordinary production, thus heralded before the public on the eve of the Presidential election, that the assertion of my having *advised* the treaty of 1819, is a *barefaced falsehood*, without the shadow of proof to sustain it." &c.

Now, is it not evident, from this ready and unequivocal denial made by General Jackson himself, that the *onus probandi* fell upon Mr. Adams? Why, then, was it necessary for such an automaton as John P. Kennedy to reiterate it? The friends of General Jackson call for the proof now, while he is living, and Mr. Kennedy, with the aid of his *quandam* friend, Samuel S. Governeur, must produce it. They think, that the correspondence, alleged to have taken place between General Jackson and Mr. Monroe, will put the *issue* between General Jackson and Mr. Adams forever at rest; but they may rest assured that the friends of General Jackson will allow no *misstatements* of the *issue* Mr. Adams has averred, viz: a *previous consultation*, and, a *previous approbation* of that *particular boundary*; and to the support of this averment, General Jackson and his friends will doubtless hold Mr. Adams and his friends, in all their attempts to escape from the "*unfortunate dilemma*," in which he has involved himself, and I shall wait for the promised publication of General Jackson's letters. I can readily imagine how it should be, that Mr. Monroe (long after the signature of the treaty, and when Spain was still hanging out against its ratification, and when there was considerable opposition to it here at home) writing to General Jackson of all the

difficulties by which he had been surrounded in its negotiation, might well receive responses from him approbatory of what he had done, under all the circumstances of the case; but this would not aid, in the slightest degree, Mr. Adams, in averring that he had held a personal consultation with General Jackson, and secured his previous approbation of the treaty before it was ratified. The points at issue are, that General Jackson denies positively having been *consulted personally* by Mr. Adams, in relation to the terms of the treaty; and that he never gave his *previous approbation to it*. Here is the issue, and Mr. Adams and his friends, with the aid of his diary, must sustain it, or the world will award to them an unenviable position in the history of their country. General Jackson has never denied having had a correspondence and consultation with Mr. Monroe, but he denies positively, having had one upon the subject with Mr. Adams. This is the dispute, and Mr. Adams is bound to prove his assertion, with corroborative testimony to sustain his diary, which has never been exhibited to the public gaze. But when did General Jackson ever say or write, that he was dissatisfied with the Florida treaty *ab initio*? Who pretends that he ever complained of it, or of Mr. Adams' negotiation of it, until he received the communication of Mr. Erving in 1829? That communication contained a statement of facts never before known to General Jackson until its reception. In his letter of 1843, to Mr. A. V. Brown, he expressly says—"I was filled with astonishment!" At what was he astonished? At the disclosures made to him in the communication of Mr. Erving? Now, here is the starting point, as far as I have any knowledge of the subject, of General Jackson's opposition to the Florida treaty. *Before* that, he had learned, no doubt, from Mr. Monroe, the general course of the negotiation, and the difficulties which attended it, and he might have thought that Mr. Monroe had done all that was in his power to get a favorable treaty, and, therefore, may have expressed his approbation to him. But how vast the difference in many cases, between recommending the making of a treaty "*before-hand*," and "*acquiescing*" in one after it had been *done*, and could not be altered. The case of the late treaty with Great Britain, in relation to our North-eastern boundary, is an apt

illustration. How many Senators thought it best to ratify that treaty *after* it had been made, who would never have made it themselves? But after Mr. Erving's statements were made, General Jackson found that Spain had given express authority to her Minister to surrender as far as the Colorado, or even the Rio Del Norte. He saw, in the face of this express authority, that Mr. Adams had accepted the Sabine, and he was filled "with astonishment," to use, his own emphatic language, at such a dereliction of public duty. Now, it settles nothing between these gentlemen to produce General Jackson's letters to Mr. Monroe, or any body else, written *after* the treaty, and *before* Mr. Erving's communication. Within these periods, forsooth I know, General Jackson may have approved what had been done. I have had no communication with him on the subject, and only judge of this controversy from what I have seen of it in the public newspapers, and from facts concomitant with the great question upon which it originated,

But if he ever had so approved its consummation, it was for the want of that information which never was communicated to the Senate or the public, but which General Jackson, for the first time, learned from Mr. Erving, our Minister to Spain. It is now well established by the correspondence printed by the order of the House of Representatives, that many parts of the most important communications of Mr. Erving to Mr. Adams were suppressed by him and never went to the Senate at all.—Hence, they were never known to the public, and only came to the knowledge of Gen. Jackson, through Mr. Erving's statement. I repeat, therefore, that letters from Gen. Jackson, approving directly or inferentially the Florida treaty, written *after* the treaty was made and *before* the communication of Mr. Erving to General Jackson in 1829, can prove nothing on the issues now pending between the parties, nor show anything inconsistent with the publications of Gen. Jackson on the subject.—The letter of Mr. Monroe to Gen. Jackson, and his reply, published in the *Globe* of the 21st January, does not, in the least sustain Mr. Adams in his assertion, that General Jackson *approved* of the Treaty before its *ratification*, which is the question in controversy. This letter is precisely as I anticipated, settling nothing at all of the controversy between General Jackson

and Mr. Adams. It does not pretend to speak or allude to any previous consultation or approbation of the Treaty by General Jackson. On the contrary, it entirely negatives such an idea. Would Mr. Monroe have gone into all the details appertaining thereto, in order to explain the circumstances which governed his action on the Treaty, if General Jackson had been previously consulted and apprised of all the circumstances, as asserted by Mr. Adams? Such an idea is preposterous, and he may refer in vain to his *diary* to sustain him in his present position before the country on this subject. Mr. Monroe's letter was dated long after the Treaty. Spain had failed to ratify it, and the subject was lying over for the future and farther action of the Spanish Cortes. In the mean time, many persons, (Mr. Clay and others,) were insisting on our taking armed possession of Florida and Texas, without farther waiting on the action of Spain. Under these circumstances, Mr. Monroe says to General Jackson, (among many other things,) that he had been decidedly of opinion that we ought to be content with Florida for the present, and until *public opinion* in that quarter, (*the North*,) shall be reconciled to any farther change. Why did Mr. Monroe so express himself to General Jackson, if he had been consulted by Mr. Adams before the adoption of the treaty? Every thing in connection with this subject, taken together, is entirely against Mr. Adams and his *diary*. Mr. Monroe also alleged to General Jackson, as another reason, why we ought to be satisfied, of the then raging of the Missouri question, and other difficulties by which he was surrounded, to justify his action and conclusions. Now, General Jackson in reply to such a letter says: "The view you have taken of the conduct of our Government relative to South America, (*not Spain*,) in my opinion has been both just and proper, and will be approved by nine-tenths of the nation. It is true, it has been attempted to be wielded by certain demagogues to the injury of the Administration, but, like all other base attempts, has recoiled on its author, and I am clearly of opinion, *that for the present* we ought to be content with the Floridas." Does this, in the least, sustain Mr. Adams? Certainly not, because Mr. Monroe was particular in enumerating the difficulties by which he was surrounded to secure General Jackson's approba-

tion, which would, if it had been previously secured by Mr. Adams before the treaty was ratified, have been an act of supererogation on the part of Mr. Monroe. The inference to be drawn from this correspondence is, that General Jackson did not know any thing of the particulars of the treaty as stated by Mr. Adams, and that Mr. Monroe's object was to secure his support, by pointing out the difficulties by which he was surrounded, to the treaty which had been negotiated by Mr. Adams and de Onis. Here, then, is the long threatened disclosure that was to settle the issue between General Jackson and Mr. Adams! This, too, is that new work of fiction, (*not Horseshoe Robinson*,) promised by Mr. John P. Kennedy, in his speech on the Annexation of Texas. If this is all they have to bolster up their tottering reputations and their anti-American feelings, General Jackson need say no more—his friends may rest in ease, and Mr. Adams may continue to gnaw the file of his malignity to the last.

ALGERNON SYDNEY.

## SPEECH,

*In Committee of the Whole, on the proposition directing the Judiciary Committee to report a bill abolishing the Circuit, Chancery, and Supreme Courts.*

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Before commencing his argument, Mr. Brown introduced the following resolutions, as containing his views of the alterations which it was expedient and proper to make in the present judiciary system, which he moved should be adopted in lieu of those heretofore under discussion,

“Resolved, That it is expedient to make the following alterations in the judiciary system of this State, and that the committee on that subject prepare and report a bill accordingly.

1st. That a Chief Justice of the Supreme Court should be elected, who, with the three associate judges thereof, should hold said court at three places only, to wit: at Knoxville, Nashville and Jackson.

2nd. That the Chancery Court should be abolished, and the causes therein should be transferred to the Circuit Courts of their appropriate counties.

3rd. That the Circuit Judges should hold three terms of their courts annually, with their present jurisdiction, and such other as is hereinafter transferred to them.

4th. That all jury causes should be transferred from the county to the circuit courts, except actions of debt and assumpsit, founded on bonds, bills, promissory notes and liquidated accounts signed by the party to be charged therewith. Such actions to be commenced as at present, but to be tried by the justices holding the county court, without a jury and without any declaration or other pleadings in writing. Judgment to be rendered the first term with reasonable stay of execution, unless good cause for continuance be shewn by affidavit. Either party dissatisfied and desiring a jury trial, to be entitled to an appeal to the circuit court.”

The Clerk having read said resolutions at the table, Mr. Brown proceeded as follows:

MR. CHAIRMAN: You will perceive that the three first propositions which I have just submitted, differ from those heretofore under discussion, only in this, that they do not contemplate a removal of the present judges from office. The system—the plan—the frame-work of the courts, is substantially the same, the removal of the present incumbents constituting the only material difference between the respective propositions. This being the case, I shall proceed to the discussion of the subject, I trust, with the same good temper and courtesy, which have heretofore distinguished this debate. The gentlemen from Smith and from Rutherford, who opened this discussion, have set us an example, in this respect, worthy of our imitation. They met in the tournament, shivered their lances and retired, with a gallantry which would have done honor to the most experienced champions in the proudest days of chivalry. Other gentlemen have followed on both sides, doing great justice to the subject and reflecting on themselves and their constituents the very highest credit. But what are to be the results—the practical effects of all this debating? Is it likely to terminate in a mere war of words—in a mere personal struggle for rhetorical ascendancy? I do most sincerely desire that it may: but from the moment of its commencement I have had the most serious forebodings on my mind. Have you not observed what profound attention has been paid to this debate—what deep and breathless anxiety pervades all who have witnessed this discussion? Gentlemen need not imagine that it is a mere compliment to their powers in debate. No, sir, your fellow-citizens have learned that the independence of the judiciary, that main pillar in our political fabric, is about to be pulled down, and they cannot be insensible to the disastrous consequences. Nor will the effects of this discussion be confined within these walls; for we are kindling a spark in this debate, which will hereafter spread, and brighten, and burn, through every county in the State. The gentlemen know they can extinguish it now—that they can extinguish it in a moment, if they choose to do so. If, however, they will not, let them remember how we warned them—how we even implored them not to break up the deep foundations of social order, nor visit on Tennessee the distracting scenes of Kentucky.

Let us examine what necessity there is, granting that they have constitutionally the power—what necessity there is for raising and pressing, with so much zeal, this delicate and perplexing question. The gentleman from White has been pleased to represent, in fervid language, the sufferings of the people for want of the proposed alterations. He, I think it was, that represented the country “as bleeding at every pore.” The gentleman from Davidson, though he did not deal in such bloody metaphor, dipped his pencil in the most gloomy colors, and presented us a picture of justice “old, and blind, and maimed.” Now, sir, I propose to throw away all metaphor—that being too much the language of poetry and romance—and to institute a plain matter of fact enquiry, whether there exists any adequate necessity for turning all our judges out of office.

I begin with those of the Circuit Courts, and of East Tennessee. I ask of the gentlemen on the other side of the mountain, what fault do they find of Powell. What has he done to justify the legislature of his country in rudely dismissing him from office? On this side we have often heard that he deserved higher advancement in the judiciary, and possessed eminent claims to the political honors of the State.

I will next inquire as to judge Scott. What terrible explosion has taken place in his circuit—what popular rage is dragging him from the bench where he has so long, and, as I thought, so usefully presided?

The next in order is judge Keith. With him I have never had the pleasure of an acquaintance: but for ten years of public life, I have associated with members of the Legislature and other persons from his judicial circuit, and I know of no public officer, who, from information, occupies a more enviable station in the esteem and confidence and gratitude of his country.

Now, sir, having gotten through with the East Tennessee judges, I demand to know of their representatives on this floor, what well-founded complaints can be exhibited against them? If they tell me none, then I enquire of them how they can reconcile it to reason or justice, to their consciences, to disgrace those judges by wantonly turning them out of office. It will be no sufficient apology to them or to the country to say we intend to remove that disgrace by restoring them to office.

The combinations of interest and the resentments of disappointed ambition in a new election, may render them liable to hazards, to which it is cruelty and injustice to expose them.

I will next enquire, whether any necessity exists for this rash measure, among the judges of the *Western District*. Of judge *Hamilton* I have heard no complaint: Of judge *Turley* I never expect to hear any. He is one of those rare instances of judge-making in Tennessee, which could hardly be bettered.

Judge *Haskell*, whatever might have once been the case, seems lately to have risen in popularity in his circuit. At all events, it can hardly be necessary to *nullify* him out of office, since you are in a fair way to do so in a much more constitutional manner. I come now to speak of the judges of *Middle Tennessee*, and I begin with judge *Kennedy*. The history of our lives would show, that we have not *always* been friendly, and that we are not now the greatest admirers of each other; but, sir, were he my greatest enemy, his character as a man and his reputation as a judge, shall not be tarnished with my consent by turning him out of office. Next, sir, I will enquire, who complains of judge *Humphreys*? I know not, and I care not; for turn him out when you may, his place will not be supplied by an equal. Have complaints been raised against judge *Mitchell*? If so, let us take warning from the fact. It goes to show that the judge which you made in 1829 could not last until 1831. What assurance then have gentlemen to offer, that *this whole tribe* of judges which you are proposing to make, will endure until 1833? I have yet to speak of judge *Stewart* and judge *Williams*, and have left them for the last, because I knew they were most complained of. I believe, sir, that nine-tenths of all this noise and clamor against the judges may be traced to their two circuits. Admit all this complaint to be well founded, do not gentlemen perceive how unjust it would be, to involve the other judges in the same disgrace with these? Surely that moral vision must be clouded that could expect the representatives of the other nine judges to commit an act so unreasonable and so indefensible.. I will now ask the gentlemen from *Williams*' circuit if we have not already done a great deal to relieve them from the real or supposed hardship of their condition. At the last session thou-

sands were spent to rid them of the evil by the direct operation of an impeachment. When that failed, a new circuit was formed to lighten their burdens. Beside all this, in 1827, the complaints from that quarter induced the Legislature to pass a law authorizing the appointment of special judges. In doing this I admit the provisions of the constitution were most probably transcended, but coming from that region of the State, the gentleman from White should have been the last to reproach us for the infraction. Sir, I am inclined to believe that it is because we have done so much, and shewed such a disposition to do every thing asked for, that we are now called upon to consummate this last and fatal act of constitutional violation.

As to judge *Stewart*, most of us were boys—some on this floor were scarcely in existence—when he commenced the labors of the bench. This flourishing city in which we are now deliberating on his overthrow, was then nothing more than an ordinary village. He penetrated the forest, visited all the new counties as they were established, and in *log court houses* which neither sheltered him from the rain nor protected him from the cold, administered the law, “without sale, denial or delay.” Patient and persevering, and possessing more learning than many who outstripped him in the career of judicial promotion, he has been for twenty-two years the most virtuous, the most unambitious, and the most useful of all our circuit judges. I will go further and assert to this committee, that he has rendered more valuable services to the people of this State than any other judge of any grade or rank whatever. Your books of reports may hand down to posterity many names more honored than his, but the memory of none will be more richly embalmed in the affections and gratitude of the present generation. And yet he too is to be swept away by this modern doctrine of judicial nullification! And for what? Because he has grown old. Yes, sir, that is true; but let it be remembered, that *he has grown old in your service*. The infirmity of his body has not impaired a single faculty of his mind. I this day assert that he knows more law than half his persecutors, and is a better judge than the best half of those who are getting ready to step into his slippers. But he is crippled, withal, and goes upon crutch-

es ! How did he become so? He has told the simple and affecting story in his own memorial now lying on your table. I was in this city when the news of his unfortunate accident arrived ; I witnessed the anxiety of the public mind about his fate, and let me warn gentlemen how they too rudely pull him down from the bench : for judging from what I then saw, his downfall may excite a tide of popular indignation, deep, powerful and overwhelming.

I have often thought, that there was something strange and unaccountable in the cold indifference, and even absolute neglect, of the world toward meritorious and useful *civil* officers. You decree a triumph to him who captures a city—you crown with laurels the General who achieves for you a victory, whilst the judge who builds up and perfects your jurisprudence and administers justice in its purity to thousands, lives unrespected and dies unhonored. For myself it is not so ; for I would today rear as proud a monument to the memory of a Haywood, a Crabb, and a Brown, as to that of the bravest hero that expired on the plains of New Orleans. Holding such sentiments as these, I should be recreant to honor and to justice, were I to join in this crusade against the judges. Yet I desire gentlemen, whilst I acquit them of every improper motive, to understand distinctly the reasons why I cannot go with them.

1st. Because they do not substantially change the system—they do not even give it a new dress. 'It is called, to be sure, a *district* court, but what signifies names? It is to be held by one judge as at present—to be held at the same places—to have the same jurisdiction, and is, to all intents and purposes, the old circuit court over again. I regard it as a disguised and fraudulent bantling, re-christened by the gentleman from Smith, with the gentlemen from Davidson and from White standing as its reputed God-fathers !

2nd. I cannot go with them, because I do verily believe we shall get worsted in the exchange. We have now eight or nine good judges and only two or three indifferent ones. I had rather stand as we are, than risk the chances of making matters worse by attempting to mend them.

Mr. Chairman, I pass over the proposition in favor of abolishing the Chancery Courts. All the different propositions

believe contemplate that event. It is demonstrable that they render no service adequate to the expense. They now stand as sinecure offices, which ought not to be allowed in a republican country. Such they must continue to be, unless you transfer to them all equity jurisdiction from the circuit courts. This I apprehend the people will not consent to, as they are too few in number and too sparsely scattered over the country.

Nor do I intend now to discuss at length the proposition to transfer all jury cases from the county to the circuit court. I shall ask of this committee hereafter a separate and distinct consideration of that branch of the subject, when I hope to be able to shew, that such a transfer will be greatly serviceable to both plaintiffs and defendants, and calculated to lighten the taxes and diminish the expenses of litigation in every county in the State.

I proceed therefore to consider the last proposition to abolish the present Supreme Court and to build up another on its ruins. This is your court of the highest and last resort—the head and the heart of your judicial system. It is the head, because from it all the subordinate members receive their direction, and the heart, because from it proceeds every principle of vitality that pervades and strengthens the whole. You may lop away one member after another, and still the branchless trunk would live, a mutilated monument of the heedless violence of the times; but when you have once laid the axe to the root and prostrated its majestic trunk on the ground, all will be lost that rendered life secure or made liberty valuable.

Let this committee remember that no substantial alteration in the system of this court is proposed. Its name, its jurisdiction, its emoluments are the same. It is the old Supreme Court in disguise, with but little to conceal its identity. Gentlemen have only muttered a few cabalistic words, and the present court has disappeared and a new one has risen in its place, with nothing to distinguish it but a new set of judges! Is such pretended magic consistent with the constitution of the State?—The 2nd section of the 5th article declares, the General Assembly shall by joint ballot of both houses appoint judges of the several courts of law and equity, *who shall hold their respective offices during good behaviour*—not so long as they may remain

young—not so long as they may be blessed with eyesight—not so long as they may be popular with the Assembly—but for and during *their good behaviour*. Sir, I throw no peculiar sanctity around our judges, I am no advocate for them as individuals, and would never consent to keep up *useless* or *unnecessary* offices for their benefit; but I maintain that according to the spirit and intention of the constitution, we have no right to abolish a *necessary and useful office* for the purpose of getting clear of obnoxious incumbents. If the Legislature possess this right, then our judiciary can no longer be regarded as independent. The judges continue in office, not during their *good behaviour*, but during the *will and pleasure* of the General Assembly. If it were intended that they should hold their offices by *so frail a* tenure as this, why so much caution in providing for their removal by impeachment? Why so carefully provide, not that a majority, but that two thirds of the Senate, sitting as a court of impeachment, should be necessary to conviction? Now all these safe guards have been erected in vain, if the Legislature can, in this summary way, remove the judges at its pleasure.

A precedent for doing so has been drawn from the removal of the midnight judges of the elder Adams. There is not the slightest resemblance between the cases. The Federal party had changed the system—they had established a separate Supreme Court to be holden by a distinct set of judges, and to find employment for their favorites, had required the district courts to be holden, not by one, but by a plurality of judges. The Republican party, coming into power the very next day, were of opinion that the change was an improper and unnecessary one, and therefore repealed it at once and restored to the country the former system. They were abolishing *useless and unnecessary* offices, and the incumbents necessarily fell with them. Besides, sir, if the history of those times were examined, which I have not done for many years, it would very probably be found, that no commissions were ever actually delivered, or any oath of qualification ever administered to those new judges—however this may be, the repeal can be justified on the most correct *principles* without referring it to the party excitements of the day. The repeal of the old district court, in 1809, and the establishment of the present Circuit and Supreme Court system

is also adduced as a precedent. I will not take up the time of this committee in showing the total want of resemblance in the two cases. The whole *organization* of the courts was changed, and not the slightest inclination manifested to wage a personal war against the judges. The effect of such a warfare must always be disastrous, and if the doctrines so earnestly advocated on the other side should finally prevail, then indeed as has been said, we shall find ourselves far at sea, without a chart and without a compass—every wave will carry us further from safety and every breeze of popular commotion, will but hasten our destruction. Your judges, standing solitary and unsupported, are obliged to be overpowered—they have been so in this present controversy. The cry of their destruction has gone forth, and to escape their pursuers they have fled to the constitution—yes, they have fled to that as the city of refuge, and are now standing and holding to the horns of the altar. I implore gentlemen not to pursue them further, nor pollute the sanctuary by staining it with their blood. But, sir, I believe that I am imploring in vain; I believe that a majority of this house is determined to accomplish this work of destruction. They have seized, like the strong man of old, on the pillars of the constitution, and are determined to pull it down on our heads. If it must be so, I will not fly for safety, but call on every friend to the constitution and an independent judiciary, to stand by each other to the last, and let us be buried in its ruins.

## ADDRESS,

*Delivered at Pulaski, by A. V. Brown, to his constituents on his return from the called session of the Legislature of 1832.*

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**GENTLEMEN AND FELLOW CITIZENS:** I am induced to address you on the present occasion, in order to respond to the frequent enquiries made as to what course I shall probably pursue in the next elections. On my return from the Legislature, I discovered that so many of my political friends were expecting me to offer for another station, that I came to the determination not to be again a candidate for the General Assembly. Having communicated this fact to a few individuals, I wish now to make a public declaration of it, in order that all who desire to become candidates, may have early and fair notice.

In taking leave of you as your representative, I beg leave to trespass awhile on your patience, in reviewing some of the most prominent subjects connected with my late service. It is most common for public men to address you on subjects that lie in prospective—aspiring to win your favor, they attempt to lift the curtain of futurity, and to please your imaginations with the brightest visions which genius and fancy in their highest revelry can possibly create. I have no such splendid prospects, however, to lay before you—my business now is with the past—not the future; to lay before your understandings, not your passions, a true and just account of all my conduct as your public agent. I am the more ready to render that account, from a deep and thorough conviction, that during no period of my public life have I better sustained your interest and maintained your rights, than during the two last sessions of the General Assembly.

The public acts of the regular session have now been for more than twelve months before the public mind, and as far as I have been able to learn, have given general satisfaction.— With but few if any exceptions they have been found to be based on equal and impartial justice, calculated neither to pamper the rich nor to oppress the poor—intended for the benefit of all, they confer no party or sectional advantages, but look forward to the general welfare of the whole State. As to the special laws of that session, in which the county of Giles was interested, we presume none can be dissatisfied. At the commencement of that session, the county had not a single dollar in the way of public funds, except what was raised by ordinary taxation ; at its close, your representatives had obtained for her between 12 and \$15,000. All remember the dissatisfaction that then prevailed about our Agency Bank. Your representatives prevailed on the Legislature to cut off the greater part of it from the mother Bank, and to make a donation of it to the county of Giles. Its superintendence was given to all the Justices of the county, whilst its direct management was given to Mr. Abernathy, an agent, in whose integrity and capacity for such business, I know you have unbounded confidence. Beside this, your representatives obtained for you nearly \$3000 for the important purpose of improving your navigable waters. Both of these sums, making in all about 12 to \$15,000, they procured for you at one session. They made it absolutely yours, putting it beyond all future chances of being taken from you. When, let me ask, since 1809, when this county was first organized, did you ever receive such a donation as this ? Never. And I will venture the assertion, that when the little prejudices and the passions of the present times shall have passed away, and public men shall be judged by what they do, by what they accomplish for you, and not by the dictates of party animosity, this one donation alone will hail that session as one of the most liberal and useful to the county which was ever holden.

With this slight reference to the regular session, I will now pass to the more recent and important events of the called session. The uninformed have sometimes complained that this session should not have been convened at all. They impute it to some neglect or oversight of the members of the Legislature.

To these, it is proper to say, that such a session was unavoidable, and that no talents, however lofty, and no industry, however assiduous, could have rendered it unnecessary. The Constitution of the United States requires a new census and a new apportionment of representatives every ten years. This law of Congress, passed in April, or May, 1832; whereas the Legislature of this State, having gotten through with all its business, had adjourned about the middle of December, 1831.

Were we to have continued in session, with nothing to do all that time, waiting for Congress to pass that law? or were we to be gifted with the spirit of prophecy, and thereby know beforehand how many new representatives we would be entitled to, and to lay off the districts accordingly? Alas! your representatives, like their constituents, are but poor prophets, and can find themselves full of employment in comprehending the past and providing for the present, without pretending to lay claim to a prescience of the future!

That law of Congress gave to Tennessee four additional members of that body, and of course four more electors of President and Vice President. In these alarming times, when Congress was engaged on the great questions of the Bank, of Internal Improvement, the Tariff, etc., were you willing to do without your full weight in the national councils? Again, were you willing in the Presidential election, whilst General Jackson was struggling in his election against Henry Clay, the anti-Masons, the United States Bank, and the old Federal party in the bargain, to take away from him four votes in Tennessee, to which he was entitled? No, gentlemen—the Governor knew his own duty and your wishes too well not to convene the Legislature on such an important occasion. If he had not done so, he would have been denounced from one end of the State to the other; and you yourselves would have been amongst the loudest in his malediction. Liberty is better than money, and the expense of a called session ought not to weigh as the dust in the balance, when compared with the permanence and safety of our republican institutions.

In his message, the Governor called our attention to the laying off of Congressional districts, according to the new apportionment of Congress. This has always been found a

troublesome and perplexing business. I was in the Legislature ten years ago, when the present system was formed; I then witnessed the difficulty of making any arrangement which would give universal satisfaction, and at the same session took an early opportunity to explain to the committee, most of whom had no experience on such subjects, the main source whence dissatisfaction then arose, and implored them, as far as practicable, to avoid such difficulties. I was opposed to long districts, because they were sure to create a struggle amongst the counties for the centre—each anxious to get a favorable position for itself, would exert every effort to avoid being placed at either end of the district. Laying down this principle, I insisted, wherever it was practicable, to lay off the districts in a triangle, rather than an oblong. In that form, no county would be in the centre, and therefore none would have a right to complain. Applying these rules to this quarter of the State, I was willing to place Bedford, Warren and Franklin, in one district; Lincoln, Giles and Maury, in another; and then to give three districts to the west, beginning on Lawrence, etc., west. Contrary, however, to this wish, the committee reported our district in its present form, I voting against it on account of its being longitudinal instead of triangular.

In the House, whilst the bill was on its passage, I was still anxious for Lincoln, Giles and Maury to compose the district rather than the present, because I knew Lincoln would be dissatisfied at running so far to the west, whilst the small counties would be dissatisfied at being connected with the large ones above. Whilst, however, I was exerting myself to bring about a district composed of Lincoln, Giles and Maury, the former made an effort to place herself in the centre, by taking Franklin on the east, and Giles on the west. This proposition was directly at war with the interest of both Franklin and Giles, because it placed them, though much the smallest counties, on the outer skirts of the district, whilst it placed Lincoln between seven hundred or one thousand votes stronger than either exactly in the centre. I regretted this proposition very much, because it compelled me to give up the idea of Lincoln, Giles and Maury, which I thought would give the least dissatisfaction, and in self-defence, to contend for the centre for my own

county, rather than yield it to Lincoln, in running the district towards the mountains. At this point, therefore, the interest of Giles and Lincoln was directly at issue; I had tried invariably to avoid bringing their interest in conflict. I believed it might be avoided by laying off a triangular district, but, when that issue was made by Lincoln's asking the centre for herself, I had no alternative left, but to ask it for you. I was your sworn representative; I had to act for Giles and not for Lincoln. The struggle was a bold and manly one on both sides; victory sometimes being declared on one side and sometimes on the other. It at last settled down in your favor, leaving Lincoln no more right to be dissatisfied than Giles would have been, if victory had been declared on the other side. Had I been the representative of Lincoln I should most probably have done as he did, but, being the representative of Giles, my sworn duty required me to act as I did. Every reason that made Lincoln desire the centre, made Giles desire it, and every thing which made Lincoln averse to being at one end of a district, made Giles averse to the same position. The recollection, however, that "the race is not always to the swift, nor the battle to the strong," ought to teach all the counties of the district not to remember in unkindness a generous rivalry, which is past, but to look forward in noble emulation, which can in future give the highest proof of republican virtue and patriotic devotion to the interest and glory of our country.

Our next duty required is, to provide for the election of electors of President and Vice President. The Governor in his Message recommended this as a favorable period for the adoption of the general ticket system. This recommendation was published probably in every newspaper in the State, and thousands of copies were printed and distributed in every part of the country; in the meantime not a single newspaper, not a single letter, was written to the members that I ever heard of; not one public meeting in any county of the State was held in opposition, and the members of the Legislature might well say, the general ticket system, as recommended by the Governor, meets with the general, and, probably, universal approbation of the people; for all have heard it proposed to us, and

none have opposed it. The general ticket system was therefore adopted under the IMPLIED approbation of nearly every man in the State, and was adopted by a unanimous vote, I believe, with the exception, probably, of one single member. Yet strange to tell, it is now objected to. Who of my countrymen were the first and loudest to make complaints? They were the enemies of Jackson and the friends of Adams and Clay. They made a huge outcry, and many plain upright men, that were not of their party, but were good friends to their country, not understanding the subject, and not knowing the motives of the Adams and Clay men, were deceived and carried away by their clamor. I stand up this day not to apologize for the adoption of this system, but to justify and defend it. Go back with me to the dark and trying period of '98, when the great battle was fought between the Federalists and Republicans, in the election between old John Adams and Thomas Jefferson. What was it that lost the republicans several votes in the Southern States? It was not having adopted the general ticket; the federalists had been on their guard and had adopted it, whilst the republicans, not looking into the matter so deeply, were taken by surprise and well nigh ruined by it. The moment, however, that election was over, the republicans in the old States resolved never to have such an advantage taken of them again; and Virginia, and North Carolina, and other States, instantly adopted the general ticket system. Many of the new States coming into the Union after this great struggle did not know so much by experience, and therefore adopted the district system. On reflection, however, they changed the plan; and at the time of the last session there was no State in the Union that voted by districts but Tennessee and Maryland. Maryland has not changed, because she has always leaned to the federal side—but Tennessee has always been on the republican side. She has always been for Jefferson, Madison, Monroe and Jackson; and therefore it was proper she should adopt the same system and walk in the same footsteps with her republican sisters of the Union.

Many of the citizens of this State, however, do not oppose the adoption of the system, whilst they mainly object to a ticket having been made and recommended to their consideration.

Many seem to regard this as an abridgment of their rights, and speak of it as a dangerous assumption of power. Let it be remembered, that this change was effected at a called session, when not more than forty-odd days were to elapse before the election. The State is more than five hundred miles in length and more than one hundred in breadth. The new electoral law must be printed at Nashville and carried to the different counties of the State, and be re-printed in the other newspapers of the county towns, and thus sent out to the people, who will require sometime to form themselves into public assemblies, and nominate those candidates whom they intend to support; these nominations must then find their way through every part of the State, in time to be known every where before the election. Now, how long would it be before the Nashville papers would reach East Tennessee, and the law be re-printed, and the people in that section meet and make their nominations? Then how long before these nominations through the papers will be generally known to the people of the Western District? Every one must know that all this could not be done with any certainty, in the common course of things, in forty-odd days. If not done when the election came on, the people would all be in confusion. Those in East Tennessee would not know whom those in the Western District were voting for on the Jackson ticket, nor those in the West be apprised of the electors to be run in the East; and thus the different parts of the State, though aiming to support the same good cause, could not act in concert in the election. The very thing our enemies desired, and by which they hoped they might have some chance in Tennessee, and accordingly made out a Clay ticket.

Now, fellow-citizens, it was this very shortness of time; it was to avoid this very confusion amongst friends, and to defeat the hopes and schemes of our enemies, that induced us to make out and recommend these electors to you. It was not to abridge your rights, but to enlarge them, by enabling you to vote for fifteen, instead of one elector, as heretofore. It was not to dictate and compel your votes, contrary to your wishes, but only to *recommend* and give facility and effect to those votes which we knew you were determined to give to

Jackson. The Legislature felt like too much was at stake in the election of that illustrious and venerable man, to run any hazard of losing the vote of Tennessee for the want of an electoral ticket. If there had been more time to go upon, the members would not have thought a moment of doing so. But, when her enemies were proudly boasting that New York would abandon him, that South Carolina would not vote for him, and that even good old Pennsylvania, seduced by the mammon of unrighteousness, would forget her ancient affection for him, your representatives would have been traitors to him, to you, and to their country, not to have done all in their power to give him the vote of Tennessee, without even the possibility of a failure. He is a citizen of Tennessee; he is proud of being so; he has declared that his brightest glory is identified with her, and that wherever he may be when Providence shall be pleased to call him from his earthly labors, his desires and his commands have already been given, that his mortal remains shall be laid for repose in the bosom of her soil. I have looked upon his grave, already prepared by his own orders, close by the side of her, whom, when living, he so much loved, and whom his enemies so much and so wantonly calumniated. If we have erred, it has been on the side of safety; we have pursued the counsel of the Fathers of the Republic; we have followed the footsteps of the ablest and the wisest States of the Union, and let me assure you, that if your future statesmen shall never follow worse counsels, nor imitate worse examples, you have nothing to fear, your freedom will be secure as your mountains, and your prosperity as abundant as your rivers that roll their mighty tribute to the ocean.

Both of these last mentioned subjects were brought before us by executive communication, but when they were disposed of, the Legislature was not willing to adjourn without bestowing the most serious attention to the various memorials of the people, in favor of a State Bank. These memorials set forth the pecuniary distresses of the country in the most feeling manner, and referring to the large amount due to the United States Bank, and to the sudden suspension or contraction of its accommodations, insisted that the establishment of a State

Bank, presented the only means of extricating the community from its embarrassments. In order to show their anxiety on this subject, and to give assistance to the Legislature, they had in many of the counties elected delegates to meet at Nashville, for the purpose of consulting and presenting the subject in the most forcible manner to the General Assembly. These delegates presented the charter of a Bank on what was most called "the real estate plan," new in its principles and complicated in its details. On its third reading in the Senate, at a late period of the session, it was clearly ascertained that such a charter could not pass, and thereupon, the bill being withdrawn for amendment, your representatives, deeply impressed with the propriety of having a Bank of some description, took all the papers to their room and made out the charter which finally passed, and which is now before the public as a law of the land. In preparing this charter, the Legislature has used every possible care to avoid the errors heretofore committed on similar subjects. In chartering former Banks, there was no sufficient safeguard against issuing too much paper for the specie on hand, nor against injudicious laws to stockholders, predicated on their stock. In the present one, a provision is inserted, that should the directors violate the charters in these particulars, they shall be liable in their individual property, and if that should fail to repair all damages, the stockholders, in their private estates, to the extent of each one's stock, are liable for the balance. This is an important principle, distinguishing this from all former charters, and protecting the people from the evils heretofore experienced by broken banks in the State. Tennessee has set the example, and if other States will follow, we shall hear no more of bank explosions, of depreciated currency, etc. Nor shall we be so often assailed with the argument that the people cannot do without a National Bank. The President, it is true, has vetoed that Bank; and in doing so, has covered himself with the highest glory; but unless the different States, when they create Banks, shall establish them on the most safe and permanent foundations, there is still great danger that this institution will yet recover from its discomfiture and ride triumphant over the rights of the States.

In relation to the Senatorial election, about which my friend Mr. Field has just spoken, like him I gave my vote to Maj. Eaton; not because his respected and talented opponents might not have deserved such an appointment, but because I believed that in voting for him I was sustaining the wishes of a majority of those whom I had the honor to represent. I had voted for him in two former elections, to the same office, and no complaint was ever made of my having done so. For ten years he had served as the Senator of Tennessee. He had proved himself worthy of the high trust. General Jackson had taken him from the Senate, as I knew, expressly against Maj. Eaton's repeated objections and remonstrances. In this situation he had been assailed and persecuted by the enemies of the administration, and with a bitterness, and, as I think all must admit, to an extent far beyond what there could have been any reason or necessity for. Believing him to be a pure patriot and a sound statesman, I felt disposed, by my vote, to show to the world that Tennessee retained undiminished confidence in him, and as was the case with Hill, Van Buren and others, rebuke the enemies of the administration for assailing the President, through his most intimate and confidential friends.

There are other subjects of importance on which, as your representative, I have had to act; but the time allotted for addressing you admonishes me not to trespass too long on your patience. The present is a fearful crisis in your national affairs; but I believe I can safely say that our *State concerns* are, in the general, in a safe and prosperous condition. If I have contributed in any degrees to that prosperity, it amply compensates me for all the privations of ten or twelve years of public service. Tennessee has taken decided grounds on the great question of nullification, now agitated, and expected shortly to disturb the integrity and union of the States. At this very moment, the convention of one of the heretofore most patriotic States of the Union, is in session, and in solemn deliberation whether or not to oppose one of the public laws of the general government. None of us can doubt but that they will attempt to effect that fearful and desperate measure. If so, and the powers of the State should be brought in open resistance against the laws of Congress, the consequences must

long be deplored by the friends of freedom all over the world.

Tennessee has uniformly protested against the oppressions of the Protective Tariff system, but she has equally raised her voice against the rash and unconstitutional measures proposed by South Carolina; she abhors oppression, but will never give up the Union. She will cling to that whilst there is hope in the world and as long as liberty has a friend upon earth. Let us, however, indulge a hope, that the State who gave birth to a Sumpter and a Marion, to the Hugers, Rutledges, and Middletons of the revolution, will not be the first to sever a Union, reared by the wisdom and cemented by the blood of the noblest martyrs that ever lived or died in the cause of freedom.

Your members of Congress, as national statesmen, must take charge of these high concerns. The times demand that they should be men of known prudence, of acknowledged wisdom, and unsuspected patriotism. With such men as these, to be co-workers with your venerable President, the Republic may yet be safe. The clouds that now hover dark and portentous over the Union, may be dispelled, and our national banner may yet wave in the breeze, with no star eclipsed and no stripe erased from its majestic folds.

LETTER

*To the South Western, or New Orleans Railroad Convention.*

I congratulate you and the whole country on the assemblage of your honorable body. I regard it as a commencement of a series of measures destined to exert a most salutary influence on our future destiny. The place selected is the proper one in all respects, and the time eminently propitious. New Orleans has so many natural advantages, that she must always be exempt from much of the suspicion of undue selfishness, to which many other places might be exposed. With or without railroads, her majestic river and its mighty tributaries must always supply her with all the elements of boundless wealth and prosperity. What if other cities should occasionally penetrate a few interior valleys, and here and there make a few encroachments on her former commerce, the impression would be too slightly felt to impede her onward progress. The insignificant loss would be more than compensated by the increased stimulus which a general railroad system would impart to the productive energies of the country.

But the place is not more favorable than the time is auspicious. The southern and western mind is now ripe, thoroughly ripe, on all the subjects which I suppose will occupy your attention. These, I expect, will be chiefly the devising of a proper railroad system for the South and West; the introduction and encouragement of a more extensive system of manufacturing into the same region, and the encouragement of importations into our southern cities, and a direct trade between them and

foreign countries. On all these subjects, I repeat, the public mind is thoroughly ripe for action.

As to railroads, who that ever made one distant journey by water, that did not prefer dry land for the next? With or without cause for it, the universal passion of the age has become, to desert the water and to fly to the land—not only to fly to it, but to fly on it, at the rate of forty or sixty miles to the hour. Even here in Tennessee, we who have been heretofore a patient and slow-moving people, (except in war times,) have been so quickened up that nothing but the iron horse and the telegraph will now do us. We are giving a hearty welcome to every railroad that approaches our borders—our legislature is now granting charters to the Louisville and Cincinnati roads to Nashville, and from that point to the Great Bend of Tennessee, in a suitable direction, to meet with the New Orleans and Mobile roads, when extended to that river. We are, in fact, reaching out our arms in every direction, proffering an affectionate embrace to all. To none a more fraternal one than to our sister cities of the South—Mobile and New Orleans. Let them come by their own ways to the Tennessee river, a little above or below where our State-line crosses it, and where all obstructions to navigation will be avoided, and we will shake hands across the stream with a cordiality that shall know no discrimination. But our legislature is not content with simply granting charters, and then leaving the projects to linger and perish, with no other than a mere statutory existence; she is proposing for all of our great (or as the technical word now is) our tidal lines, to advance to the companies her bonds at the rate of seven thousand or eight thousand dollars per mile, for the purchase of iron-rails, locomotives, and other fixtures of the roads. There is every probability that such liberal provisions will be made for them at the present session of that body. We are, therefore, profoundly in earnest; and Tennessee tenderers to Alabama, Louisiana, and Mississippi, a generous rivalry as to who shall first reach the proposed point on the Tennessee river with the roads in question. I need not take time to point out the great advantages of such a line of road both to Mobile and New Orleans. The Vicksburgh, Jackson, Brandon, and Montgomery road will be the first tributary. In

northern Mississippi, I suppose not far from Jacinto, the Memphis and Charleston road would cross, which would be the second; at Nashville, the Chattanooga will be the third, swollen as it will be by the junction at the latter place of the Charleston and Savannah, and of the Virginia and East Tennessee roads. A connection between New Orleans and Mobile with the Ohio at Louisville and Cincinnati, with such tributaries as these, must be of the highest importance to the cities at their respective termini, and to the whole region of country through which the road would pass.

But it is obvious that a connection between Louisville and Cincinnati, however important, is not the only purpose of these two southern cities. They see with what steadiness of purpose South Carolina and Georgia are pushing forward their road, to some point on the Mississippi, at or near the mouth of the Ohio. They cannot be insensible to the consequences. If Charleston is determined to stand at the mouth of the Ohio, bidding for the amazing commerce of the North-west, New Orleans and Mobile will be compelled to stand there also, her rivals and competitors for the noble prize. I speak of competition and rivalry, of course, in no sense unworthy of those enlightened cities. That they may be there in good time to secure their just and fair proportion of advantages, I respectfully beg leave to make a few suggestions to both of them.

It is evidently impossible to make the important roads contemplated by them, and which it is essential to each should be made, without a heavy draft on the resources of both cities, and on those of the towns and people along the respective routes. Is it not, therefore, the part of wisdom and just economy in both, to avoid the construction of parallel and contiguous lines, such as would be two roads from any point of approximation in Northern Mississippi to the mouth of the Ohio. To avoid doing so, I would suggest that the New Orleans road from Jackson, Mississippi, to the Great Bend of the Tennessee, should be so located as to pass the point where the Mobile road to the mouth of the Ohio crosses the Memphis and Charleston road by Tuscumbia. This point, I believe, is near Jacinto, in Mississippi. Now, from that point to the Tennessee River, in order to form a connection with the Louisville and Cincin-

nati road by Nashville, and from the same point north to the mouth of the Ohio, a road might, and ought to be constructed by the *united funds* of both cities, or of the companies representing them, securing by proper covenants equal rights and benefits of every sort to both. More especially do I consider this to be important in relation to the road running north to the Ohio. The distance will not fall much short of one hundred and seventy-five miles, and the cost of its construction not much less than three millions of dollars. Half that amount is worth saving, and its division would lighten the burden on both, as well as on the intermediate towns and people who might be called on to contribute to its construction. The suggestion is made with a full persuasion that the road can be made by either, but with the strong conviction that the proper sense of economy, and an enlightened comity of feeling, would evidently be consulted by a joint contribution to it.

I drop the subject of railroads, in order to suggest another on which the South and West are looking for your action with the highest interest: I mean the encouragement of manufacturers—manufactories generally, but more especially of our great southern staple. You will never adjourn, I hope, without making the strongest appeals to our capitalists, and especially our planters, to engage in them. The latter can build the houses necessary with their own hands. Two or three, or half a dozen, can unite in one establishment. They can select from their own stock of slaves, the most active and intelligent ones for operatives, without the necessary advances in money to white laborers. The cost of machinery, and the expense of one or two others of practical experience to superintend the rest, will be nearly the only outlay of actual capital for the business. I earnestly desire to see one-fourth of southern slave labor diverted from the *production* to the *manufacture* of cotton. One-fourth of such labor abstracted, would give a steadiness and elevation of prices to the raw material, which would better justify its cultivation.

I have no time to elaborate this view of the subject; I but hint at it, and indulge the hope, that it will be placed in the hands of one of your ablest committees.

In relation to the encouragement of importations into our

southern cities, and of direct trade between them and foreign countries, I do not know that I can suggest anything valuable. When the south shall have completed a well digested system of internal improvements, connecting the interior with our southern ports, importations will come of themselves. Ability to furnish *assorted cargoes* will soon attract a direct trade to the full amount of the ability of our southern cities to accommodate it. This theme, also, opens too wide a field either for my present time or for the patience of your honorable body.

I therefore close this communication with the most profound respect and confident expectation, that your deliberations will result in the lasting benefit of our common country.

Very respectfully,

AARON V. BROWN.

*Nashville, Tenn.*

REPORT,  
*In the Legislature of Tennessee in 1831.*

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The Judiciary Committee, to whom was referred "A bill concerning free persons of color, and for other purposes," have had the same under consideration, and beg leave to present to the House of Representatives the following Report:

The first section of the bill provides, that it shall not be lawful for any free person of color, whether born free or emancipated under the laws of any other State, to remove him or herself to this State, to reside therein, under the penalty of being indicted, and, on conviction, fined in a sum not less than ten nor more than fifty dollars; and moreover, to be sentenced to hard labor in the Penitentiary, for a term not less than one nor more than two years. Such persons not departing from the State immediately after their discharge, to be confined in said Penitentiary a period double the longest term before mentioned; but not to be liable for any further pecuniary fine. The second section provides, that every such free person of color, who shall have removed to this State *within twelve months* next before the passage of this act, shall be required to enter into bond with two or more good and sufficient freehold securities, within six months after the passage of this act, conditioned that they will demean themselves in a peaceable and orderly manner, and they will do all in their power to maintain the public peace and quiet under the same penalty as prescribed in the first section of the act, with a proviso, excepting free persons of color who are indentured servants and apprentices. The third section prescribes, that any free per-

sons of color, now in this State, and who have not emigrated to it within twelve months before the passage of this act, (as mentioned in the second section) on complaint made, that such free persons of color fail to conduct themselves as peaceable and orderly persons, or attempt to excite a spirit of insubordination amongst slaves, or other free persons of color, or that they are generally suspected of such conduct, they may be brought by warrant before three justices at the court house of the county, and compelled, if thought guilty, to enter into a bond, payable to the chairman of the county court conditioned as in the second section. And if such justices shall believe from the particular case made out, that the peace and safety of the State requires it, said bond may be further conditioned, that they shall within a reasonable time, to be fixed by the justices, depart from the State.

The fourth section provides, that it shall be lawful from and after the passage of this act, for any court to order, or any owner or owners of slaves to emancipate them, but on the express condition that they shall be immediately removed from this State; and if they should return, the bond required to be given shall be recoverable and they sold as slaves.

The fifth section requires the act to be given in charge by the judges and the attorney generals at every term, and the latter empowered to require information on oath of all sheriffs, coroners, constables and other persons, so as to be enabled to carry this act into effect.

Your Committee regard with the deepest concern those recent events in other States, which have rendered prohibitory legislation like this, indispensably necessary to the repose and safety of the country. They indulge in no sentiments of hostility against this unfortunate portion of their fellow-creatures, and would most willingly, if in their power, diminish, rather than add a single drop to their cup of bitterness and affliction. The necessity for their prohibition on our part, and the inconveniences to which it exposes them, is one of the evils of that system of slavery, which the cupidity of other generations have entailed upon us, and which neither the wisdom nor patriotism of modern times has yet been able to remedy. Prior to the Revolution, no entreaty nor remonstrance could induce

the crown of Great Britain to interpose its authority to put a stop to the slave trade: The royal negative was perpetually imposed on every effort of the Colonial legislatures to prohibit a commerce utterly inconsistent with all the suggestions of justice and humanity. Hence it was that our enemies took occasion to reproach us in our struggle for independence for imposing slavery on those who differed with us in complexion, whilst we were offering up our vows at the shrine of liberty, and sacrificing hacatombs on her altars. A proud vindication of our common country, against such opprobrium, may be read in the energy and promptness with which that nefarious traffic in human flesh was abolished, so soon as our National Independence was secured. The people of the Southern States, where slavery is still permitted, may also exhibit a vindication against their accusers, not less triumphant, in the gradual improvements and humane amendments, which have been effected in their criminal and civil jurisprudence respecting slaves.

In every Southern State, the most decided disposition has been clearly manifested to ameliorate their condition, as far as the safety and the most moderate profits of the master will admit. Experience has, however, clearly shown, that the association of slaves with free persons of color, has a decided tendency to increase in them habits of idleness and insubordination; hence, masters are often compelled to resort to rigorous and coercive measures, bordering closely on cruelty, in order to obviate the effects of such associations.

The free colored population of Tennessee is already considerable, and their exclusion from some States and probable expulsion from others, must throw upon the State, unless she resort to the most energetic means of prevention, an alarming number of the most vicious and profligate, which the insurrectionary times can furnish. Many honorable exceptions could no doubt be made, but in the general, the free colored population of all the States are the most vicious and dangerous—deprived of many privileges, which it were unwise as well as unsafe to bestow on them, whilst they remain amongst us, they lose most of the ordinary incentives to industry and virtue. They are excluded from all equality of association with the

whites, and very naturally betake themselves to their own color, intermarrying with slaves and becoming dangerous by encouraging insubordination and revolt. Disaffected slaves resort to their habitations in the night, when no vigilance of the master can prevent them, where they can secretly plot and devise the means of robbery, murder and insurrection. Several of the States have already excluded them from coming into their borders, and it is understood that others intend shortly to legislate with a view to similar prohibition, so that Tennessee may be regarded as acting *defensively* only, in thus guarding against a species of population at once degraded, vicious and dangerous. Urgent, however, as is the *necessity*, and manifest as the *policy* of such legislation may be, still it is proper carefully to examine the constitutional power and authority of this General Assembly to exclude this class of persons from emigrating to the State. The question seems to have been once raised in South Carolina, but we have had no access to documents showing whether any *judicial* determination was ever made upon it. In 1822, a conspiracy was entered into by the slaves of Charleston, to destroy the city and massacre its inhabitants. Free persons of color were believed to be the chief instigators of the measure; and although it was discovered beforehand and resulted in the capital punishment of about thirty of the offenders, it gave rise to new legislation by the Assembly of that State in the following December. A law was passed providing that if vessels should enter their ports either from another State or a foreign government, having on board any free persons of color as part of their crew, such persons of color were to be seized and confined until the departure of the vessel, when the Captain was required to take them away and pay the expenses of their detention. On his neglect, he was liable to two months imprisonment and a fine of one thousand dollars, and the persons so left were to be sold for slaves. In the following year, the *Marmion*, a British vessel, arrived in the port of Charleston, when four of her crew, being persons of the description specified in the act, were taken and imprisoned by virtue of its provisions. These proceedings were the subject of a spirited remonstrance from the British Minister, and it seems to have been the opinion of the then Attorney

General of the United States, that the act was incompatible both with the Constitution and existing treaties with Great Britain. See Perkins' Historical Sketches of the U. States, page 300. South Carolina, however, resisted all applications for a repeal or modification of the statute, and it is believed yet to stand unaltered in her statute book. Her Executive and Legislature seemed alike determined to persevere in the measure, and the Senate passed a resolve "that they have carefully considered the documents transmitted to them, relating to the laws regulating the ingress of free persons of color, and can as yet perceive no departure from the duties or rights of this State or of the United States in that law." The unconstitutionality alluded to by the Attorney General in this case, might have been founded on existing *treaties* between the two countries regulating their commerce; and the right of the State to regulate the *crews* or description of seamen which Great Britain might employ whilst her vessels were in our ports, would be a question materially different from the one now under consideration. Here the question relates, not to a temporary sojourn, but a permanent settlement and residence, the acquisition of citizenship in the State, which it is perfectly competent for each State to regulate, unless an express provision of the National Constitution can be adduced, inhibiting the exercise of such power. The right of the citizen to remove from one State to another, seems not to be founded on any particular constitutional provision. No clause conferring it in *express* terms is to be found in the present Constitution or in the Articles of Confederation which preceded it. It is conceived, therefore, to exist on the single principle of *national* citizenship. As citizens of the *Union*, we should be regarded as everywhere at home, enjoying all the privileges which such citizenship can confer, derivative from the general Constitution and laws: Still, however, as the local sovereignties continued to exist for all domestic purposes, and as they would have a right to act on a great many rights and immunities of their own citizens, with which the General Government could have no participation, it became necessary to stipulate for the privileges, which should be enjoyed as *State citizens*, when convenience or necessity might induce us to depart from one State and take up our residence.

in another. Hence, the first section of the fourth article of the Constitution has provided "that the citizens of each State shall be entitled to all the privileges and immunities of the several States." It cannot escape notice, that no definition of the nature and rights of citizens, appears in the Constitution. The descriptive term is used, with a plain indication that its meaning is understood by all; and this indeed is the general character of the whole instrument. Except in one instance it gives no definitions, but it acts in all parts on *qualities* and *relations* supposed to be already known. See Rawle on the Constitution, 85, 61. What then is the meaning of the term citizen, so often used in the Constitution? The President must be a natural born citizen—a Senator must have been nine years a citizen—a Representative a citizen seven years, etc. The term, when commonly used by political writers, means all those who owe allegiance and receive correspondent protection from the government, *and who have an unqualified right* to the enjoyment of all the rights and privileges of society, except when those rights are suspended for a time, in consequence of the commission of crimes. Now, if an *unqualified* right to the enjoyment of *all* those privileges be the criterion of citizenship, it will be easily perceived that free persons of color, chiefly, residing in the Southern States, were not intended to be included as such by the framers of the Constitution. There are three degrees of slavery—political, civil and domestic. The first existed in America before the revolution, the last now exists in relation to our slaves, whilst *civil slavery* is the condition of free negroes and mulattoes, whose civil incapacities are almost as numerous as the civil rights of our free citizens. These civil incapacities, at the time of the adoption of the Constitution, no doubt varied in the different States, greater and more numerous in some than in others. Still, in no one State whatever, did they enjoy *all* the privileges of white men: They were forbidden from intermarrying with the whites; they could not preside as judges, nor serve as jurors, nor give evidence against white men. In but few were they entitled to suffrage of any kind, or capable of filling any office whatever. Now, who can believe that the framers of the Constitution intended to exalt persons, subject to so many disabilities in the several States,

into Presidents, and Senators, and Representatives. Who can believe, with the slightest knowledge and remembrance of these times, that the convention intended to sweep away all the laws of the several States and impose on the citizens thereof, terms of equality in rights and civil associations, equally forbidden by the difference of color and the confirmed habits of nearly a whole country? Such a construction of the term citizen is forbidden by the fact, that for more than fifty years since the adoption of the Constitution, the same disabilities have been continued, with such alterations only as the State Legislatures from time to time have thought proper to make. The plain and obvious use of the term should therefore, as we conceive, be confined to the free white population of the United States, whose rights and liberties were everywhere the same—subject to no stint or limitation whatsoever. Still, however, it is not intended, nor necessary to assert, that free persons of color *are in no respect* to be considered as citizens of the General Government. If carried away into captivity by a foreign enemy, or illegally impressed on the high seas, the Government would have a right to demand them. If the scanty rights already secured to them should ever be violated, the judicial tribunals of the States, as well as those of the national government, in a case where it could take jurisdiction, should be bound to give them relief. All that is meant to be asserted on this subject is, that they are not meant by, nor included as citizens, under that clause of the Constitution which secures to each the rights and immunities of the several States. Besides what has been heretofore urged, it may be further added, that the term citizen, in this clause, and many other parts of the Constitution, seems to be used only in opposition to the word *alien*, and that its only meaning was to prevent the several States from establishing systems of naturalization for themselves different from that of the General Government.

In ordinary cases, the slightest doubt of the constitutionality of our power should withhold our enactments; but in such a one as this, where self-preservation is the supreme and paramount law of nature, nothing short of a direct and manifest infraction of that sacred instrument should induce us to withhold that protection and safety so imperiously demanded by

the indications of the times. "It is as much the duty of the State to guard against insubordination and insurrection, and to control and regulate any course which might excite or produce it, as to guard against any other evil, political or physical.

If a generous philanthropy should enquire, where this unfortunate race shall find a home when all the States shall have excluded and driven them out, the American Colonization Society, with the probable co-operation of the government, will point to Sierra Leone and Liberia, as the future residence of this devoted people.

Under a review of the whole subject, your committee beg leave to recommend the passage of the bill, with certain amendments to its provisions, to be designated by their Chairman.

All of which is respectfully submitted.

A. V. BROWN, CHAIRMAN.

## AN ARGUMENT,

*Against Capital punishments, reported by order of the Judiciary Committee, in support of a bill abolishing such punishments as to all free persons in the State of Tennessee.*

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### INTRODUCTION.

Vanity itself, however great, could hardly induce us to expect to supersede the labors of Montesquieu, Rush, Beccaria and many others, against the improper infliction of capital punishments. We must entirely mistake the foundation of our own learning, and, in a good degree, the sources of our own humane and benevolent feelings, were we not to admit to the fullest extent, the high claims of those distinguished and eloquent advocates in the cause of humanity. They have, however, in writing on many other subjects, condensed their views and arguments on this one, into the small compass of a single chapter, without taking time to enlarge, illustrate and enforce it. This brevity has no doubt arisen from a conviction, that errors accumulated through so many generations, and supported by so many passions of the human heart, could never be overturned. Results, though they have not realized all the hopes of the benevolent, have, by no means, corresponded with their despondence. Next to the general diffusion of knowledge, and the wide extension of religious principles, the enlightened humanity of the age is to be attributed to their generous exertions. They planted the root of that tree whose blossom is now so pleasant to look upon, but whose full maturity must be expected at some future period.

If, in making this further effort in behalf of the few against

the many—of the weak and the oppressed against the mighty, should this argument fail to add anything valuable, we will not so much regret our want of success in writing, as we will long deplore the infatuation of society, in continuing to shed the blood of so many human beings. We do not aim entirely at originality; our sole object being to reform society in its habits of thinking and feeling on this important subject, every thing we have either read or heard, which is considered valuable, will be brought forward and insisted on; hence, it should be regarded more as a mere compilation, than an original production.

If men were like the trees of the forest, that die and fall and return to dust again, or, if after death they vanish into eternal insensibility as though they had never been, we would not thus earnestly complain of their destruction. The toils and perplexities of life would then often make it desirable to return to that gross element out of which chance or destiny had formed them.

He who would pierce their clay tenement with a dagger, or destroy it with a pistol, would often perform the highest act of kindness and love. But their souls are immortal, their spirits have been despatched by the great father of spirits on a pilgrimage to earth; their happiness or misery through eternity, depends on their moral state or condition when leaving the world. Who shall say when that pilgrimage shall close? Shall poor mortal man, himself a pilgrim, shuddering every moment of his life at the dreadful accountability which awaits his own soul, shall *he* fix the awful period when the spirit of his frail brother-child of the dust, shall return to him who gave it?—Surely He, and He alone, knows best when to recall them, who sent them forth, and whose high purposes they were intended to accomplish. The responsibility of extinguishing human life, is the greatest that can be incurred on this side of eternity. This responsibility may be parcelled out amongst so many individuals—the Legislators, the judges and jurors of the country, that none may be able to feel and realize its full weight; yet all should remember that it still continues to exist somewhere; and that every drop of human blood, wrongfully shed, will continue to cry from the ground like Abel's, until Heaven shall

avenge it. To the law-makers, however, of every government, this enquiry is chiefly addressed. They constitute the fountain whence the streams of bitterness and death begin to flow. All the errors of judges, the ignorance of jurors and corruptions of witnesses, are, in some sort, chargeable on them, for attempting to usurp the high prerogative of Heaven, and then delegating it to such frail and imperfect instruments of mortality. The enactment of bad laws by the sovereign, is probably worse than the violation of good ones by the subject; because the first is supposed to act with deliberation, and without any extraordinary inducement to do wrong, whilst the second is often the victim of some sudden and overwhelming passion, which it was scarcely possible for his nature to resist.

“ Mercy to him that shews it is the rule,  
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 And he that shews none being ripe in years  
 And conscious of the outrage he commits,  
 Shall seek it and not find it in his turn.”—[Cooper.]

### THE ARGUMENT.

#### THE ORIGIN OF HUMAN LAWS.

The world has been much amused with a variety of ingenious conjectures about the original condition of mankind:—whether it was a social, or what writers have commonly called, a state of nature. The Poets of antiquity have often alluded to the latter state, and by their golden, silver and iron ages, illustrated their opinions of it. Historians and moralists also, abandoning their search after facts, have sometimes wandered far into the regions of imagination, and submitted many wild suppositions, instead of the sober realities of truth. Among the writers who have attempted to distinguish, in the human character, its original qualities, and to point out the limits between nature and art, some have represented mankind in their first condition, as possessed of mere animal sensibility, without any exercise of the faculties that render them superior to the brutes—without any political union, without any means of explaining their sentiments, and even without possessing any of the apprehensions and passions, which the voice and the

gesture are so well fitted to express. Others have made the state of nature to consist in perpetual wars, kindled by competition for dominion and interest, where every individual had a separate quarrel with his kind, and where the presence of a fellow creature was a signal for battle.\*

From both of these conditions, mankind have been supposed to have emerged, and to have formed societies from a great variety of motives,—their fears, their affections, their interests, and in fact, their almost every well ascertained motive of action has been given by some one or other of these writers, as their inducement for forming a regular system of political government.

Against all these theories, in which imagination has been substituted for reality, and the provinces of reason and poetry strangely confounded, the history of man, as given in the Bible, should have been considered as conclusive. In that history, more authentic than all others, he is represented to have been *created* in a social state:—"male and female created he them." The increase and extension of the first society, its manners, occupations and laws are there given, with a minuteness and clearness that dissipate at once all the hypothesis of which we have been speaking. At the period when the blood of Abel was made to stream around the simple altar of his devotion, settlements had been extended to the land whence his murderer was banished. The descendants of Cain built up cities, resided in tents, became artificers in brass and in iron, and handled the harp and the organ.

The first society of all, planted in a place wholly devoted to the worship of God, needed no human legislation. Its happy members, two only in number, holding sweet and constant communication with their divine Creator, knew of no law necessary to their being, save a single prohibition. It was not until all the blooms of Paradise had withered, and the flaming sword of the cherubim had been planted on its gates, that the restraints of human laws became necessary. Over the first family the father was the natural protector and law-giver, and became so for his wife, by the express direction of the Almighty,

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\*Furguson on civ. society.

in the malediction pronounced on Eve, "*eris sub potestatem tui viri.*" It is hardly probable that the authority of the first parent continued over his descendants during the long period of his life, which exceeded nine hundred years, since in that time the population of the world exceeded several millions, and was no doubt scattered over an immense space of country. Did his authority extend over his own *children* during that period, and they in their turn, become the law-givers *for their* children? Or did it cease on their arrival at maturity, or whenever they left the domicil of their father?

Reason would suggest the latter as the proper period for the termination of parental authority, and it is certain that it must have been a very slender government which Adam could have exercised over Cain, after he had been driven to the land of Nod. In this view of the subject, the first societies consisted of families, and the first governments were patriarchal. When, however, a number of families, from the ties of kindred; from desire of gain, from a sense of individual weakness, or other motive whatsoever, became associated into one political compact, all patriarchal authority having terminated, they evidently had, and, no doubt, exercised the right of establishing the principles of their association, restricted only by the paramount laws of the Deity. These principles might all be determined at once by express stipulation, or be the result of long continued usage founded on the implied assent of the different members of society. The same rights attach to every government or association of men down to the present day. They extend to the acquisition and protection of property, of reputation, of public liberty, and indeed, to all the lawful objects of political association. The conditions or terms on which these associations are formed constitute their laws, and consist in the voluntary sacrifice or surrender of a certain portion of individual rights for the greater security and enjoyment of the balance. Every individual would choose to put into the public stock the smallest portion possible,—as much only as was sufficient to engage others to defend it. The aggregate of these, the smallest portions possible, forms the right of punishing; all that extend beyond this is abuse, not justice.\*

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\*Beccaria.

History, and our own experience, clearly show that, no argument, however convincing—no eloquence, however moving, is sufficient to ensure obedience to either the moral or social law. This is true of our species in every age and under every condition, whether dwelling in caves, in tents or in cities. Hence, the necessity of that branch of public policy usually called the criminal law. Temporal punishments operating on the senses of mankind, producing pain of body or anguish of mind, have been universally resorted to. These punishments may clearly extend to the privation of all social benefits and advantages. These, society gave, and can, therefore, take away. Hence, banishment was a frequent punishment under the Grecian and Roman governments, as transportation is at this day by the laws of Great Britain. Can they, however, be rightfully extended to the destruction of human life—to the dissolution of that union between soul and body, ordained by the Almighty, and too mysterious for mortal comprehension?

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THE EXPRESSED OR IMPLIED ASSENT OF INDIVIDUALS.

The right of society to deprive any of its members of life, is claimed on the ground of his actual or implied assent to that condition of the social compact at the time of his admission into it. It must be evident that an actual assent has but rarely, if ever, been given. Governments have never been organized at once, with all their laws, civil and criminal, in full maturity. Their origin is commonly hidden in the darkness of antiquity, where no record can be seen to inform us what were the ceremonies of their commencement. The American governments constitute a proud and striking exception, in the time and manner of their origin; but in none of these has an actual assent been given by the citizens to the laws, either civil or criminal. When or where have they ever been assembled to give such an assent?

The right in question must, therefore, chiefly depend on the *implied* assent of individuals—from their continuing in society after they have arrived at the age of sound discretion. At such an age, it were almost impossible that man should leave society. His social habits which the law has encouraged—his ties of kindred, which the law has commanded him to regard, even

his very religion, to which the law has been as an handmaid, all chain him to the spot of his nativity, and repel him from the forest or the desert. In such a state of moral duress, will the law exact even an *implied* promise to its obedience—obedience too, even unto death?

Suppose, however, such an assent given—nay, more: suppose an actual assent given, in proper person, by every individual member of a community, that certain crimes should be punished with death; I ask, have they a right to give such an assent, or to enter into such a stipulation? They have no right to authorize others to do that which they are not authorized to do themselves. No man ever had a right to take away his own life;—it is not his own to take—it is the high and unalienable gift of his Maker! Who, then, should dare to extinguish that vital flame which God has kindled? Who shall dare impiously to war against the purposes of Heaven, and with his hands reeking with his own blood, rush, uncalled for, into the presence of Deity? The dagger, the pistol, the poisoned chalice, and the halter, have, indeed, achieved many suicidal conquests, but not until all the high born faculties of their victims lay prostrate in derangement. If our life ever become a burden to us, our crimes and follies have made it so; and we should so live, that in deep repentance we might atone for them. No argument can be necessary at the present day to establish the proposition,—the command of the Decalogue—“thou shalt not kill;” many precepts of our Saviour and his Apostles, and all the first principles of our nature are opposed to suicide, and nothing in favor of it but downright insanity. In some countries the laws attempt, even, to punish it as a crime. The body of him who comes to a voluntary death, is drawn on a hurdle and pierced with a stake; his memory is rendered infamous, his family disgraced, and his estate forfeited.\* Since, then, no individual, whether living alone on some distant island, or residing in the crowded city of civilized life, has any right to take away his own life, I ask, how can he delegate that right to another? How can he hand over the halter to society and say, here it is, although I have no right to use it myself, yet you

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\*Voltaire's Commentary.

are hereby authorized, with it to terminate my existence whenever you may think proper? In nature, can the stream ever rise higher than the fountain? In law, can the agent have more authority than the principal? In reason, can a man give to others what he has not; or can he give more than he hath?

It is inexpressibly painful to dwell on such gross absurdities. The right of society to destroy the image of God on earth, must, therefore, be sought for from some other quarter than either the expressed or implied delegation of it, by its individual members.

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#### THE LAWS OF NATURE.

In deriving this right, a distinguished author has drawn a distinction between offences against the laws of nature and those against the laws of society—between crimes *mala in se*, and such as are only *mala prohibita*. The right of punishing the first, as murder and the like, with death, is, in a mere state of nature, vested in every individual—whereof, Cain, the first murderer, was so sensible, that we find him expressing his apprehensions that whoever should find him would slay him.\*

We have heretofore attempted to show that this state of *mere nature* never did exist, but in the dreams of poetry. The savage and uncultivated state has, no doubt, often existed, in which men have lived in the desert, little superior, in enjoyment, to the lion and the tiger, and much his inferior in strength and safety. But the natural, as opposed to the social state, never did, and of course the laws of nature, as a code for the government of men, in that condition, cannot be referred to without the most evident absurdity. To suppose men to be out of their natural state, so soon as they begin to form plans of government, and to invent the useful and ornamental arts of life, is as irrational as to suppose ants to be out of their natural state when they store up their hoards for winter, or bees when they construct combs for their honey.† There are, however, certain principles attached to our nature, and inseparable from our being; they are not enrolled on parchment, but are engraved on the hearts of all men; they belong to them in every condition, in the cave as well as the palace—

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\* 4 Bl. Com. ch. 1.

† *Sull. view of nat.*

in the desert as well as the city. If these constitute the laws of nature, their existence is most cheerfully admitted. The right of self-defence, common alike to the reptile and the man, is one of them, by virtue of which, not only individuals, but societies may, in certain cases, be justified in taking away human life. These cases will be hereafter specified, rare in their occurrence, and always dependant on the fact of total inability in the government otherwise to protect itself.

The case of the first murderer can hardly be considered an apt illustration of any other law of nature than that of self-preservation. Why did Cain feel such apprehensions, that whoever might find him out would slay him? Not from any law which had ever been enforced among mankind in a state of nature or previous to any social connexion, for they had never lived in such a state, and of course had never been subject to any such law; not as alleged by an eminent divine,\* because all the inhabitants of the earth were of one family, and each having the right to kill the murderer of his relative; for this was the first murder ever committed. Mankind were taken by surprise and had scarcely legislated in advance against such a crime. The law, or custom, that the nearest relative might avenge the death of his kinsman, must have taken rise much later in the world, after repeated acts of the same kind had suggested the idea to mankind. These apprehensions must have arisen from the terrors of a guilty conscience. He had just looked upon death for the first time; the pale and bleeding corpse of his brother was ever before his imagination, and the terrible denunciations of Heaven were even then ringing in his ears. No wonder, if in every hand he expected to find the flaming sword of vengeance! Nor do these fears seem to have been entirely groundless. The news of his horrid, and till now unheard of crime, no doubt flew far and wide in every direction. The minds of men were filled with astonishment and alarm. They would hear, too, that this fugitive and vagabond had been cursed from the earth by the Almighty himself. In such a state of excitement, to what might not their fears for their own safety, and a belief that they

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\*Adam Clark.

would be doing "God service," have prompted them? So the Lord put a mark on Cain, not for his guilt only, for that, by establishing his identity and perpetually reminding mankind of his crime, would evidently have increased his danger; but a mark which, besides proving his guilt, would also admonish the rest of mankind against his destruction. One conclusion, however, may be fairly drawn from this case, which is certain, and too important to be overlooked: Whether these apprehensions were founded on the laws of nature, as alleged by Blackstone, or on the law of one relation's avenging the death of another, either is expressly repealed, and sevenfold vengeance denounced against all who might attempt to enforce them. If not founded on either of these laws, but on a spirit of vengeance or the fears of mankind, they are forbidden to be indulged under the same severe penalty.

Why was the punishment annexed to the slaying of Cain to be *sevenfold* greater than his, for slaying his brother? No case could hardly ever equal it in atrocity—none at all events could ever surpass it in that proportion. May it not have been done from a knowledge on the part of Deity, that from some principle in our fallen nature, difficult of specification, so strong would be the inclination to usurp the high prerogative of deciding on life or death, which he was determined to retain in his own hands, that nothing less than so great a penalty would be sufficient to restrain it. If the principle of self-defence be that law of nature referred to by Blackstone, it perfectly accords with the doctrine of this essay, and in deriving the right in question, that able commentator lays down the following rule: "To shed the blood of our fellow creature is a matter that requires the greatest deliberation and the fullest conviction of our own authority; for life is the immediate gift of God to man, which neither can he resign nor can it be taken from him, unless by the command or permission of Him who gave it, either expressly revealed or collected from the laws of nature or society by clear and indisputable demonstration."\* How can the command or permission here spoken of be collected from the *laws of society*? They condemn the

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\*4 Bl. Com. ch. 1.

traitor and murderer to death, "clearly and indisputably," but do they do so by the command or permission of Deity? This can never be learned from human laws, but must be searched for in the paramount code of Divine legislation. Unless the expression be strictly confined to those who attempt to exercise judicial functions, it evidently impairs a rule which we believe to be perfect without it.

#### THE SUPPOSED NECESSITY OF SUCH PUNISHMENT.

Its exercise is often justified by writers, and some, too, of great eminence, on the score of necessity—"that inexorable tyrant, which, with an iron sceptre, rules the universe." It is admitted that society has a right to defend itself against the lawless encroachments of either its own members or of foreign enemies; and that if this defence cannot be made effectual without taking away the life of the assailant, it may rightfully do so on the great principle, stated in a former chapter, of self-defence. The same principle is allowed of by the law to individuals, and is so deeply engraved on the heart of every man as to be inseparable from his very being. Individuals, however, in the exercise of it, are subjected to certain rules and restrictions, without which it would no longer be a shield to defend them, but a sword of destruction wielded by cruelty and vengeance. Hence, the rule of law, that the assault must be such as to threaten the life of the individual, or some great bodily harm to him, and so made as to leave him no other possible, or at least, probable means of escape. He must betake himself to flight, he must retreat even to the wall, e'er he is permitted to shed the blood of his fellow! All this is required of him, as avowed by the law, from extreme tenderness towards human life.

Apply even these rules, without insisting on others, to society when she, in her turn, is arraigned for the many victims whose blood she has shed. She pleads justification and insists that all her capital punishments were inflicted in self-defence; that one plotted treason against her, another imbrued his hands in another's blood, and a third counterfeited or corrupted her coin.

These did, indeed, threaten her existence, or at all events,

some great bodily harm; but had she no other possible, or even probable means of escaping their meditated mischiefs? I ask this question again of every civilized nation on earth, had you no other possible or probable means of defending yourselves against traitors, murderers and counterfeiters, but by resorting to the wheel, the halter or the guillotine? Thousands of these you have launched from time into eternity with all their sins green and blooming upon them;—had you no other alternative? Could you not have banished or transported them to some distant shore, far from any possibility of their future annoyance? Or could you not have doomed them to perpetual slavery, shutting them out, not for a few years, but forever, from that society, of whose benefits they were indeed unworthy? Your punishments, then, would have been confined to their *bodies*, and you would have allowed to their souls that space and opportunity for repentance, without which neither the king on his throne, the judge clothed in ermine, nor the poor wretch trembling under the gallows, can ever see the face of God in peace. In either of these situations (banished or imprisoned for life,) they would have been, in fact, dead to society, but alive to the upbraiding of a guilty conscience—the punishment of God on man whilst on earth, and the foretaste of that fiery indignation which, without the deepest repentance, awaits him in eternity.

Such complaints as these, it is true, would not apply to all nations, nor to the same nation in every condition. The family of Noah leaving the ark of their deliverance and descending the mountain that they might find a subsistence in the cultivation of the plains, had not the means of banishing or imprisoning for life any of its members who might prove refractory. The same admission may be extended to the Grecian, Roman and American colonies, and, in fact, to every nation in the youthful dawn of its existence. When, however, it has attained to something like maturity, with a population adequate to its protection—with a commerce that secures enough of national wealth, with, indeed, enough of every thing (save humanity) which would enable it to make successful defence against the lawless and unprincipled—the death of a citizen can never be necessary but in a single case: when, though

deprived of his liberty, he has such power and connexion as may endanger the security of the nation, when his existence may produce a dangerous revolution in the established form of government; but even then, it can only be necessary when a nation is on the verge of recovering or losing its liberties, or in times of absolute anarchy, when the disorders themselves hold the place of laws. But in a reign of tranquility, in a form of government approved by the united wishes of the nation, in a state well fortified from enemies without and supported by strength within, and opinions, perhaps, more efficacious, where all power is lodged in the hands of a true sovereign—where riches can purchase pleasures and not authority, there can be no necessity for taking the life of a subject.\*

This argument of self-defence is sometimes presented in another aspect. It is said society may take away the lives of its members, not only to prevent *their* future depredations, but for the purpose of deterring others from the commission of like offences; as it is said in one of the old books "*ut poena ad paucos, metus ad omnes perveniat.*" This proposition can be admitted in this argument only so far as it relates to the *mode* or *manner* of inflicting capital punishments, but not as the foundation of a right to do so. In all cases where nations are justified on the score of self-defence, to inflict the punishment of death they may direct, as matter of policy, their executions to be made in public, that the rest of the community may profit by the example. Suppose, however, that society were to determine that all accusations, trials and executions touching human life, should be conducted in profound secrecy—that the result should never be made known to the world, would the right in question be imperfect because the punishment of death was not inflicted before the multitude? Nations have often found it necessary, from motives of state policy, from a threatened rescue, from an apprehended tumult, to inflict their punishment in a dungeon. Were all these executions unauthorized, were they so many judicial murders, only because the horrid spectacle was not exhibited to the sympathizing or infuriated multitude?

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\* Beccaria.

The strength of this argument consists in the supposition that without such punishments crimes would become so frequent as to threaten the existence of society. "Was the vast territory of all the Russias worse regulated under the late Empress Elizabeth, than her more sanguinary predecessors? Is it now, under Catharine the second, less civilized, less social, less secure? And yet we are assured that neither of these illustrious princesses have throughout their whole administration inflicted the penalty of death?"\* The punishment of murder, by death, has been proved to be contrary to the order and happiness of society, by the experiments of some of the wisest legislators in Europe. The Empress of Russia, the King of Sweden, and the Duke of Tuscany, have nearly extirpated murder from their dominions by converting its punishment into the means of benefiting society and reforming the criminals who perpetrate it.† Actual experiments of a total abolition are not very numerous, but nearly every government in the civilized world has made partial ones that ought to be satisfactory. Is the British government less secure for having reduced the number of her capital felonies from about two hundred to twenty or thirty? What government has been weakened or endangered by abolishing the punishment of death for heresy and for witchcraft? The gradual amelioration of the criminal code, so far from weakening, has, no doubt, in many countries, increased the actual strength of the government, in drawing around it the rational approbation of the age—by the explosion of those ancient barbarities which are now justly regarded with the deepest abhorrence. Will no punishment short of death, in the cases which still remain capital, after all the improvements in criminal jurisprudence, be equally safe for society, by equally deterring men from the commission of crimes? We say an *equal* effect, because, after thousands of experiments, in which death has been inflicted in every variety of manner, with all the torture and ignominy which the human mind could invent, it has proven utterly insufficient for that purpose. Men have been strangled to death—have been burnt alive at the stake—have been torn asunder by trees fastened to

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\* 4 Bl. Com. ch. 1.

† Rush's Essays.

their limbs—have been devoured by wild beasts—have been beheaded at the block, and hung up by the neck under the gallows, in every age and almost every nation of the earth—still, treason, and murder, and robbery, and all the long catalogue of capital offences, are daily committed by men who will not take warning from these bloody threatenings of the law. Is it not time, therefore, to try some new remedy—to resort to some different mode of punishment, more beneficial in its operation on society—more clearly within the pale of its authority to inflict, and more consonant with the precepts of that benign religion, which, whilst it declares the sufferer to be a frail child of the dust, also proclaims him an heir of immortality.

**THE RIGHT AS SUPPOSED TO BE FOUNDED ON DIVINE REVELATION.**

Having seen that human life, from the nature of its gift, can be taken away only by the command or permission of Him who gave it, our enquiry is now directed to—whether such command or permission has ever been given. Prior to the deluge there seems to have been no express law against murder;—no precept having been delivered on the subject, mankind was left to that innate horror and consciousness of its impropriety, which, during the period of two thousand years, with only one or two exceptions, was found sufficient for its prevention. This is the more remarkable, because, in the latter part of that period, so great was the depravity and wickedness of man, that the very windows of Heaven were opened and the foundations of the great deep were broken up for his destruction. The murder of Abel is probably the only one recorded from the creation to the flood. What is said of Lamech is too obscure to be much relied on.\* Some have doubted the correctness of the translation, and insisted that it should be read interrogatively; others have supposed that Lamech had slain a man in self-defence; and that he delivered this speech to his wives to quiet fears entertained by them, lest the nearest kinsman might avenge the deed; whilst St. Jerome indulges a rather silly conceit, that he had, by accident, in some way or other, taken away the life of Cain. If, however, it be taken literally, a-

\*Genesis, ch. 4, 23.

cording to our common translations, it will only prove that two murders instead of one were committed in the antedeluvian world. The punishment of Cain was the first precedent furnished to mankind. It was not pronounced by any human tribunal subject to the errors and imperfections of humanity;—not even by Adam, the natural lawgiver and judge of the world, who had received the lessons of wisdom from the very lips of his Creator, and on whose heart all the original impressions of his nature were yet bright and distinct. No! God himself who made him and threw around him all the incidents of his being, becomes his judge and executioner. No gibbet is erected—no rack of torture is prepared for him;—these are the inventions of weak and angry men. He is *banished* from society—a mark of his crime, and of his destruction being prohibited, is placed upon him—he is subjected to the necessity of labor, and in his conscience is fixed a never dying worm. This was the judgment of the Most High God, and is, therefore, exempt from every possibility of error. It was pronounced on the first offender, and in a case, since then, never surpassed in deep atrocity.

The first portion of the sacred writings supposed by Sir William Blackstone to confer this right, is the sixth Noahic precept—“Whoso sheddeth man’s blood, by man shall his blood be shed, for in the image of God made he man.” Some have supposed this passage to be prophetic of what mankind would do on the principle of revenge, and not a command or permission making it lawful to inflict the punishment of death. Without insisting on this construction, which has the sanction of several illustrious names, it may be safely asserted that these precepts delivered to Noah were not intended to be perpetually binding on the human family; but were to continue in force only until the publication of some other code should take place, more minute in its details and more ample in its provisions. The former race of mankind, with all their laws and institutions had been swept away and destroyed by the waters of death. The only survivors, whilst standing around the rude altar, hastily reared in gratitude for their deliverance, received these seven precepts or laws for their government. They were few in number—not reduced to writing nor engraven on tables,

and capable of preservation only in the slippery memory of those who heard them: They were, therefore, temporary in their nature, and embraced those subjects only which were absolutely necessary in their peculiar situation: In the designs and purposes of Providence, it seems to have been of vast importance to re-people the earth and re-supply it with those various animals which had been so lately destroyed. Such was its solicitude, if the expression be allowed, to repair the universal desolation of the deluge, that every one of these seven commandments, or precepts, seems to have been given with that view. "Be ye fruitful—multiply and replenish the earth," is the first and seventh. "The grant of animal food—the earth having become less fruitful," is the second and third. "The prohibition of the blood of animals," is the fourth. "Cruelty to animals," is probably the meaning of the fifth; and the sixth is the one now under consideration. This brief analysis will serve to show with what view the expressions were introduced—"whoso sheddeth man's blood, by man shall his blood be shed." The little family of Noah was a germ from which all the future nations of the earth were to vegetate; every possible care must therefore be taken for its preservation. The means of self-defence must be amply adequate to its protection, against all attempts to destroy it, even to retard its progress. For a long time this infant society, on whose growth and enlargement Divine Providence seems to have been so intent, would not have been able, by the banishment or imprisonment of the refractory, to insure its safety. Hence the right was expressly given, to take away the life of its members, there being no other probable means of effectuating the purposes of Heaven in their preservation.

The exclusive power of Deity, over human life, is said to have been committed to his creatures, in the law delivered to Moses amid the fire and the smoke of Mount Sinai. This law has been correctly divided into the moral, political and judicial. The first, commonly called the decalogue, or ten commandments, comprising an interesting and sublime system of moral government, is universal in its operation, and perpetual in its obligation. The two latter have never been so considered. They constitute a civil code for the government of the Jews only,

exclusively confined to them, until they become dispersed over the world, without a king, without a prince and without a sacrifice. Their authority *commanding* the infliction of capital punishments, is no more binding on a Christian nation, than the laws of Media or Persia, or of those various tribes that were driven from Canaan by the sword of the Lord and of Joshua. Nor is it conceived, that they are entitled to any weight, even as *examples permitting* the destruction of human life, by modern nations. The Jews have always claimed, and have been well entitled to, the appellation of a *peculiar* people. Every thing connected with them seems to be miraculous. That they, so stiff-necked and rebellious, should have been selected as God's chosen people—that the waters of the Red Sea should have been divided for their escape—that a cloud by day, and a pillar of fire by night, should have directed their journeyings,—that their drink should have been made to gush from the sides of the rock, and their food to rain down from the clouds,—that their laws should have been written by the hand of God, and delivered on Horeb to judges and priests raised up and inspired to carry them into execution,—is all a continual succession of miraculous events, in the providence of God, toward the Jewish Nation. How strange, then, is the notion, that the political, judicial, or ceremonial laws of such a people should be incorporated in any system of modern government! Never was there before or since, so rebellious a people, and never were such extraordinary means necessary to keep a nation in subjection. Even at the time when their leader and deliverer was receiving these very laws amidst the most sublime and awful demonstrations at the power and grandeur of a God, this wayward people set themselves to dancing, in idolatrous worship, around an image of gold! Hence, many laws were given, peculiarly adapted to them, but probably not suited to any other nation in the world. Their Divine Legislator expressly declares, "I gave them statutes that were not good, and judgments whereby they should not live." The law of divorces and retaliation were evidently of this description, and were intended as curses, not as blessings on the Jewish Nation.

## THE SAME SUBJECT CONTINUED.

As it is the general and almost universal habit of those who advocate the infliction of capital punishments, to run to the Mosaic law, it may not be amiss to pursue this part of the subject a little farther. The Jewish government was a Theocracy, in which the judges, who were to carry the laws into execution, were but the especial ministers of Heaven raised up and inspired for that purpose. They were, therefore, perfectly exempt from all error and corruption in judgment, and even incapable of being misled by the perjury, or deceived by the ignorance of witnesses; they pronounced the very judgment in all cases, that God himself, had he presided on earth, would have pronounced. With judicial tribunals so divinely organized and superintended, a system of laws might well be given to that nation, which would be altogether unsuitable to a government purely the work of men's hands, and whose laws were to be administered by uninspired judges, and often by very weak and very wicked ones.

If the Mosaic Law, with respect to murder, be obligatory on Christians, it follows that it is equally obligatory upon them to punish adultery, blasphemy and other capital crimes, that are mentioned in the Levitical Law, by death. Nor is this all: it justifies the extirpation of the Indians, and the enslaving of the Africans; for the command to the Jews to destroy the Canaanites, and to make slaves of their heathen neighbors, is as positive as the command which declares "that he that killeth a man shall surely be put to death."

Every part of the Levitical Law is full of types of the Messiah. May not the punishment of death inflicted by it be intended to represent the demerit and consequences of sin, as the cities of refuge were the offices of the Messiah? And may not the enlargement of murderers who had fled to those cities of refuge, upon the death of a High Priest, represent the eternal abrogation of the law, which inflicted death for murder, by the meritorious death of the Saviour of the world.\*

We are not, however, left to general reasoning like this, to obviate the force of these Jewish examples. The substance of

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\*Rush's Essays.

all the different passages which we have heard quoted, is to be found in the *lex talionis*. That law declared, "if any mischief followed, then shalt thou give life for life—eye for eye—tooth for tooth," &c. How many human beings have been sacrificed under the supposed authority of this Law? Were they all assembled, they would outnumber the largest army that folly or ambition ever mustered into their service! Yet this very law stands repealed, not only by the general temper and spirit of the Christian dispensation, but by the express declaration from the lips of our Saviour himself. In his sermon on the Mount, he expressly quotes and repeals this very law: "Ye have heard that it hath been said, an eye for an eye and a tooth for a tooth, but I say unto you, (I who made the first law and can repeal it at my pleasure,) I say unto you, that ye resist not evil; but whoso shall smite thee on the one cheek, turn to him the other likewise." In the same spirit of meekness and love, he refers to another Jewish maxim: "Ye have heard that it hath been said, thou shalt love thy neighbor (or friend) and hate thine enemy. But I say unto you, love your enemies; bless them that curse you; do good to them that hate you; and pray for them that despitefully use you and persecute you; that you may be the children of your Father which is in Heaven; for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust." What pure morality! What sublime disinterestedness! This sermon alone furnishes conclusive internal evidence of the divine legation of Jesus Christ. A new era had dawned; a new dispensation had now opened. The clouds and shadows of the Jewish ceremonies were all to be dispelled. "Those statutes that were not good, and those judgments whereby they should not live," were now to be repealed, and mankind to be instructed how, in mercy and forgiveness, to resemble their Father which is in Heaven. *He* makes his sun to rise on the evil and the good; *He* sendeth rain on the just and the unjust, in token to mankind that, as *He* forgives them, and even returns good for their evil, so, also, should *they* learn to forgive one another. "Blessed are the merciful, for they shall obtain mercy." Let it not be supposed that this gospel meekness, though inculcated on individuals, does not embrace societies and governments in its obligation.

These are but so many associations of individuals, and their moral features must necessarily resemble, and, indeed, be the very same with those of the members who compose them. That individuals must practice the pure and sublime principles of Christianity, whilst the government they compose may set at nought its precepts, would be an inconsistency too gross to be insisted on. Nor will it do to say that the forgiveness of injuries, as here inculcated, is too refined morality for the practical government of either individuals or societies. That is borrowing the argument of the infidel, without having the courage to incur the responsibility of avowing his principles. This doctrine, rightly understood, is not so abstracted and difficult of practice. It calls on individuals and societies to surrender so much of their natural propensity as prompts them to the infliction of *vengeance* for supposed or real injuries. Is it unreasonable to require the surrender of such a passion, and that, too, under an express reservation, "vengeance is mine, saith the Lord; I will repay." Still, however, both individuals and societies are left at liberty to protect and *defend* themselves against the lawless and unprincipled; where passiveness and acquiescence would only invite to further aggressions. Now what is the hanging or beheading a man, but *taking vengeance* for his crime? What is it but *vengeance* to require life for life, eye for eye, and tooth for tooth? When the next of kin was commissioned for the purpose, it was called expressly, "avenging his kinsman's death!" When the offender made good his escape to the cities of refuge, were not the gates directed to be closed against the *avengers of blood*? Yet when society seizes the sword from the hands of the kinsman, pursues after the criminal, overtakes him and becomes the hangman herself, she disclaims the appellation, either because it is degrading, or because she is conscious that vengeance does not belong to her, "but is mine, saith the Lord." Besides this express and positive repeal of the law of retaliation, which required life for life, the conduct and discourses of our Saviour should outweigh every argument that has been, or can be adduced, in favor of capital punishment for any crime. When the woman, caught in adultery, was brought to Him, He evaded inflicting the bloody sentence of the Jewish law upon her. He forgave the

crime of murder on the cross; and after his resurrection, commanded his disciples to preach the Gospel of forgiveness, first at Jerusalem, where he well knew his murderer's still resided. These striking facts are recorded for our imitation, and seem intended to show that the Son of God died, not only to reconcile God to man, but to reconcile men to each other. There is another passage in the history of our Saviour's life, which would, of itself, overset the justice of the punishment of death for murder, if every other part of the Bible had been silent on the subject. When two of his disciples, actuated by the spirit of vindictive legislators, requested permission of him to call down fire from Heaven, to consume the inhospitable Samaritans, he answered them, "the Son of man came not to destroy men's lives, but to save them." Excellent words! I wish they composed the motto of the arms of every nation on the face of the earth; and whilst I can lay my finger on this text of scripture, I will never believe the punishment of death for any crime is inculcated by the spirit of the gospel.\*

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THE SAME SUBJECT CONTINUED.

Beside what we have urged in the preceding chapter, it may be asserted that, the Christian dispensation, by "bringing life and immortality to light," abolished the punishment of death. That the patriarchs and prophets, and from them, some of the ancient philosophers believed in the immortality of the human soul, cannot be doubted; but it was never reduced to so much certainty, nor so well understood until the Saviour of the world rose triumphantly from the sepulchre. From that moment the soul assumed an importance which well justifies the exclamation, "what is a man profited if he gain the whole world and lose his own soul, or what shall he give in exchange for his soul?" That its happiness or misery through eternity, depends on its moral state or condition when leaving the world, is so distinctly asserted in the sacred scriptures, that it is universally admitted in all religious creeds. All this gives rise to a very serious question, whether the infliction of capital punishments, may not involve the eternal destruction of the soul of

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\* Rush's Essays.

the unfortunate victim. If permitted to live out his days, repentance deep and radical might ensure the forgiveness of Heaven: but if cut off by the judgment of man and not of God, with all his sins thick and clustering around him, what will be his eternal destiny? What would have been that of Moses for slaying the Egyptian, or of David for murdering Uriah, had they been arrested, tried and executed before they repented and obtained forgiveness? It is a universal law of religion, that repentance must always precede forgiveness, and that the latter is indispensable in order to obtain happiness in a future life. According to this law, their eternal destruction would have been inevitable. Yet one lived to become a distinguished instrument, in the hands of Providence, of good to mankind, and the other to receive the most flattering and ennobling title ever conferred, "that of being a man after God's own heart." The thought is certainly a dreadful one, that a human soul, because it was cut off prematurely by the judgment of men, shall be forever miserable, when, with the indulgence which its Heavenly Father was willing to have given, it would have been received and even welcomed amongst the saints and angels in glory. Surely the fate of that bright emanation, so indestructible in its nature, and so much beyond all estimation in value, has never been left thus exposed to the weakness and wickedness of our species!

It will not do to suppose the Almighty to interfere and turn aside the wrath of man, by pardoning those whom he might foresee would repent, if permitted to live out their appointed times: for that would admit the judgment of death to be improper, since it requires the special interposition of Providence to prevent its too horrible consequences. Nor will it do to say that human tribunals usually allow a few weeks, and even months, to be devoted to repentance. What profane mockery! as if man should measure out the space of repentance to man,—putting it down on his frail records of parchment, within what time the gracious streams of mercy shall flow, or be forever locked up in the bosom of the Redeemer! Suppose him, however, within this brief period, by meditation and prayer, to succeed in that repentance which bringeth forgiveness,—shall he be forgiven of God, and yet be condemned by

men? Here, a vile culprit; there, a rejoicing angel! On earth, suspended under a gallows; in heaven, seated on a throne of glory! To such strange inconsistencies society is often exposed. She gives time for repentance, yet no reformation, however complete, and no repentance, though proven by more and stronger circumstances than those on which he was convicted, shall rescue him from his fate.—Die he must—though angels stand ready to conduct his repentant spirit home to paradise, whilst his unrelenting executioners consign his body to the grave of infamy. How, in the economy of Heaven, all these difficulties will be adjusted, we know not; “shadows, clouds and darkness rest upon them.” The slightest probability, however, that the *soul* of the offender may be effected by the judgment pronounced against his body, ought instantly to stay the hand of death, and substitute perpetual confinement for the guillotine and the halter. This is certainly the voice of safety echoed back by humanity and religion.

No apology is intended to be offered for the moral cast which this part of our argument has assumed: it grows out of the nature of the subject we are investigating, and particularly the contrast which we are attempting to exhibit between the Jewish and Christian dispensations. It is a remarkable fact which we take occasion to mention before we close this contrast, that the advocates of capital punishments, whilst catching with eagerness every expression of the Mosaic and Levitical law in their favor, should have entirely overlooked a most important provision of the latter, that human life was never to be taken away on the testimony of one witness. “Whoso killeth any person, the murderer shall be put to death by the mouth of witnesses: but one witness shall not testify against any person to cause him to die.”\* “At the mouth of two witnesses, or three witnesses, shall he that is worthy of death be put to death.”† How much innocent—at all events, how much doubtfully guilty blood, might have been spared, had these excellent rules of evidence been observed. Society in anger seized on the sword of the Jewish law, but threw away its shield.

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\*Numbers, 36. 30. †Deut. 17. 6.

## THE FALLIBILITY OF ALL EARTHLY TRIBUNALS.

As most great truths are not always believed, it is highly probable that universal assent will hardly be given to what has been urged in a former part of this argument, against *the right* to inflict the punishment of death. Admitting, however, for the present, such a right to exist, beyond the limitation of self-defence, we shall attempt to show that it is *inexpedient* or improper to exercise it.

An argument against the propriety of punishing any crime with death may be found in the natural frailty of man, and consequent fallibility of every tribunal in which he presides. We admit, as exceptions, such as were organized under the Jewish Theocracy, in which Moses and Joshua, with the inspirations of Heaven constantly streaming upon them, pronounced judgments as much exempted from the possibility of error, as if they had been pronounced by God himself. We mean such tribunals as are composed of judges selected from the general mass of mankind, and who can have no claims to any miraculous or supernatural assistance in the discharge of their functions. That every government would select men of the best talents and of the most unimpeachable integrity for its judicial department, might be one of those presumptions, which like many others in law, is directly at war with the truth.—They are often appointed by the sovereign, from an overweening partiality, and in more popular governments, from the struggles of party, or the arts and intrigues of electioneering demagogues. Sometimes, too, the influence of family or kindred, and even the general rudeness, not to say barbarity of a nation, may throw the ermine around them who, in a more enlightened age, would scarce deserve to be the executioners of justice. Mistaken parsimony, however, has done more mischief on this subject, than all other causes beside. Governments will not pay, and competent men will not serve; hence, dolts and blockheads often fill those places, to which the genius of Mansfield and Eldon, or Marshal and Pendleton, were scarcely competent! To the worst, as well as the best of these, is entrusted the administration of a grand and diversified system of law, covering the whole space of human degradation, and expanding with the endless evolutions of crimes. To commit

the lives of men to such judges, is downright murder in society herself. To commit them to the judgment of any *one* judge, however highly gifted, in both legal and moral attainments, though less atrocious, is nevertheless unsafe and improper. The responsibility is too great and the consequences of a mistake too awful to be incurred by any *one* individual whatever. During a long and difficult cause, amid all the perplexities of *nisi prius* trials, having to guard against the superior address of counsel on one side, and perhaps to supply the deficiency in skill on the other, he will be almost sure, to fall into some error, either in the admission or rejection of evidence, or in the application to it, of the sound principles of law. Such mistakes as these may result from the slenderness of his attainments in his profession, or they may be produced by that defective organization of the human mind, which stamps imperfection as a motto on all human exertions. Equally fatal ones may arise from some personal bias or habit of the judge.—These give weight and seriousness to a defence, or detract from it in exact proportion to such former bias or habit.—Hence the provocation, which shall extenuate murder into manslaughter, or the overt acts that shall constitute treason, in the *practical* charge, will be varied according to the constitutional courage, and the political connexions of the judge.—We say the *practical* charge, because it is easy for a court, by its *manner*, to produce any desired effect upon a jury, without subjecting itself to the liability of correction on exceptions. The passions and prejudices of the judge, may, in this way be insidiously communicated to the jury, whilst the unfortunate victim is rendered utterly incapable of contradicting their baneful influence. Even in cases where no passions nor prejudices, nor even former habits have induced the error, there is often a *pride* of character which forbids a judge from making a distinct and fair admission of it upon record, but seeks for evasions and colorings, which diminish its enormity, and thereby prevents a reversal. The practitioner will remember many instances in which no solicitation could induce the court to look steadily in the eye of its own blunders. These and other objections which will readily suggest themselves to the reader, constitute strong and conclusive reasons, why the life

of man should not depend on the uncertain opinion of any one individual whatever. If, however, the trial must be superintended and conducted by one only, let every thing be required to be put upon record, and that transmitted to the highest judicial tribunal of the government, for its examination and approval. Such tribunals are commonly composed of a plurality of judges of greater age and experience, and more exempt from those local excitements and prejudices, which too often influence inferior courts to respond, in their judgments, to the infuriated shouts of the multitude. If the sentence of death must be pronounced, let it be by the supreme judicial authority of the land. Let the warrant for execution be signed by every individual, so that each may feel the responsibility of the condemnation. All this should be done, whether an appeal be prayed to that tribunal or not; because society itself should be unwilling to inflict death, until every possible precaution had been used to avoid mistakes, and because a matter of such high importance should never be left to the ignorance of the accused, or to the discretion of negligent counsel, either engaged by him or assigned by the court.

It is usual to obviate most of these objections, by referring to the trial by jury, as counteracting these casual defects in the judges, and, in some degree, remedying even their want of talents and learning. The institution of jury trials would, no doubt, deserve those high eulogies which have been bestowed on it, if it were not for its complete dependence on the will and opinion of the judge. That rule which requires them to receive and adopt, with implicit obedience, the charges and instructions of the court in matters of law, leaves them but so many inefficient instruments to fill up the pageantry of judicial despotism. In those countries, where, in a few cases, they are allowed to be judges of both the law and the evidence, it very rarely happens that juries fail to adopt those opinions of the court, which have been clearly expressed and insisted on in the charge. The description of men usually selected as jurors, their information, habits and pursuits, render the trial, so far as they are concerned, merely nominal, and leaves the judge, after all, substantially, the sole arbiter of life and death. We would appeal to the experience and observation of the whole pro-

fession to attest the fact, that in a large majority of cases, both civil and criminal, a plausible and ingenious judge, of pleasant manners, with only a moderate share of legal learning, will be able to extract from a jury whatever verdict he may be pleased strongly to intimate would be desired. Where, then, is the boasted safety of jury trials? When did they ever rescue a single victim from the grasp of a Jeffries thirsting for blood? Every page of English history is stained with convictions *consented to* by juries, because desired by judges, who were either afraid to incur the displeasure of their sovereigns, or, who had not moral energy enough to resist some popular prejudice of the times. What else brought Sidney to the scaffold, or consigned to the grave of infamy so many Irish patriots? Love of liberty was called treason, and a desire to remedy existing abuses was construed into rebellion!

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#### THE FALLIBILITY OF HUMAN TRIBUNALS CONTINUED.

Human tribunals are perpetually subject to errors and mistakes, from the corruption and ignorance of the instruments which they are obliged to use in conducting their trials. Bold, unblushing perjury often stalks into the sacred temple of justice, pours its envenomed poison into the ears of the jury, and marches out again with impunity, sure and exulting in the blood of its victim! These demoniac visits are by no means rare. The experience of judges, the practice of the profession, and the observation of intelligent jurors, could tell a tale of horror which should make society startle at her own executions. Yet they have seen or only suspected one of a thousand perjuries which have been committed before them. The rest have escaped all the probing skill of the advocate, and could only be attested on earth by those sleeping tenants of the grave, whom they have sacrificed. They have all, however, been faithfully recorded in heaven's chancery, from which they shall never be obliterated, but by the deepest and most hearty repentance.

But if corruption has slain its thousands, ignorance and inattention may claim a triumph more numerous and equally inglorious. How often has it occurred, that witnesses, from inactivity of mind—from mere clumsiness of intellect, have fail-

ed to give a correct account of the transaction which they were called on to relate? A look or gesture is often of immense importance in criminal prosecutions. The tone of voice, whether one of supplication or defiance, we have known decide the momentous question of life and death! If, however, these things are correctly remembered, how often are they incapable of presenting anything like a fac simile to the jury? Such are the practical difficulties on this subject, that a personal ren-contre,—in the streets—in open day—in presence of many persons of undoubted credibility—unincumbered by any unusual multiplicity of circumstances—will be so variously represented as to excite the surprise of every observer, if they do not shake his confidence in the credibility of all human evi-dence. By what a frail tenure, then, do we hold our lives! Our enemy may assail us in the streets; may prostrate us in the dust; may hold the uplifted dagger to our breasts, yet those who look upon the tragedy, misled by their alarm, or too much excited to refer the rapid incidents of the moment to their proper order, strangely represent us as aggressors, and instead of proving a shield to our innocence, become swords of destruction against our lives!

Human evidence, to make even a tolerable approximation to truth, must come from witnesses who, beside veracity, must possess great faithfulness of memory, accuracy of observation, and clearness of discrimination. Such individuals are com-paratively rare in every community, and the proportion which they bear to the great aggregate of society, exhibits an alarming number of chances against arriving at anything like exact certainty in judicial investigations. Such certainty need not be required in question of mere property, but there is no *meum* and *tuum* in taking away the lives of our fellow beings. The breath which you stifle was breathed into his nostrils by the living God—the body which you destroy was fashioned after his divine image—the soul which you dislodge is probably an emanation of his own native, uncreated, and incomprehensible essence!

Suppose, however, the witnesses not to have sworn falsely in any important particular, nor to have fallen into any mistake or misapprehension of the matter about which they testify,

still, the chapter of accidents and errors has not closed yet. How often are *jurors*, from carelessness or inattention—from weakness or inactivity of mind, mistaken in many important details of the evidence? How often is the charge of the court, though slowly and distinctly delivered, entirely misunderstood or forgotten by them in their retirement? Ask them afterwards for a verbal report of the trial, and you will be astonished, in many cases, to hear what a rude mass they make of the evidence and senseless jargon of the opinion of the court. And yet *jurors* are generally *selectæ viri*; and when called by the government to hold its own inquests, are dignified with the title of "*probi et legales hominis!*" Although "*probi et legales*," they are still short-sighted and frail instruments of humanity—capable of sleeping in the box—of forgetting what they have heard in the evidence—of misunderstanding the instructions of the court—of being led about in their opinions by a few prominent members of their own body—of, in fact, every thing which renders all human investigations uncertain, and the life of man extremely precarious when made dependent upon them. These remarks are general ones, and admit of all those exceptions, sometimes in favor of the entire pannel, and very often, indeed, of individual members of it, which a sense of justice would require should be made.

In all cases, the jury, under the direction of the court, must ascertain the measure of criminality in the accused. This seems to depend on the *intention*, or *purpose of the heart* with which an action has been performed, rather than its injurious effects on society. On the latter principle, the madman who shoots his prince is equally guilty and worthy of punishment, as the ambitious noble who assassinates him that he may ascend his throne. So the first discovery of the process of distilling ardent spirits, and of making gunpowder, should expose their authors to severities which the ingenuity of mankind has never yet discovered, because they have done more mischief than all the traitors, murderers, house-breakers, and shop-lifters, that have ever lived. These last were but so many individual marauders, perplexing, rather than seriously endangering society; whilst the former, pouring in at every pass their legions of vices and crimes, have committed greater havoc,

than did those northern hordes, which once desolated Europe.

In many cases, how is it possible to ascertain this intention or purpose of heart? It is not visible nor tangible, nor the subject of any of those senses, through which we make our nearest approaches to truth. If recourse be had to the accompanying outward actions, every one's experience and observation will show how far short these will fall of furnishing anything like certainty as to the inward motives of the mind. It is the very design of villainy to prevent this accordance, and its highest success depends on the greatest discrepancy between its secret designs and outward actions. Hence, it has never been pretended, that the outward actions were infallible *indicia* to the inward motive, but that such motive can only be *inferred* or *presumed* from them. Now the same motive, it is known, will often produce a different set of outward actions, and that these, though alike, will often be the result of different motives.—Thus the flight of the accused may be from consciousness of guilt, or from the alarm created by knowing he was in a situation to be suspected; or it may be the outward action, resorted to by a friend to deceive the public, and, thereby, draw off suspicion from the real felon. Brutus and Casius, in the assassination of Cæsar, performed about the same set of outward actions, yet it was said the one hated the tyranny, the other the tyrant; motives widely different in their character—exalting one to the highest elevation of Roman patriotism, and debasing the other to the meanness of envying a greatness which he could not rival.

Outward and accompanying actions are, therefore, so equivocal, that human tribunals never resort to them, to ascertain the *certainty* of the wicked intent; for that being in the heart *cannot* be known by men, but only the different degree of *probability* strengthening or weakening the *presumption* of such intent. The measure of criminality, is, in this way, only a matter of conjecture—of presumption—of probability—in fact a mere matter of guess-work with the jury, in which they are no doubt sometimes right and may be often wrong. It will not do to say that they are oftener right than wrong; that may be admitted, and yet the solemn question be asked, whether, if the life of man shall be taken away with a bare majority of

chances, that it may be right to do so? If a bare majority be not insisted on as sufficient, what shall be the safe and lawful proportion? There is a nominal rule of the law which serves to decorate many of its pages, "that it is better that ninety-nine guilty persons should escape, than that one innocent man should suffer." If this rule be not taken as a mere flourish and show of humanity, which the law does not feel and will not practice on, then it establishes a proportion of chances against ascertaining the motives of action from the accompanying circumstances which will substantially abrogate all capital punishments. For who that knows any thing of human nature, who that has observed with even a careless eye, the many devices by which villainy cloaks and conceals its purposes and motives, can believe that they are ascertainable by evidence in ninety-nine out of one hundred cases? They may be in a majority, even in a large majority of cases, but to say they are in so large a proportion, is imposing an excessive tax on the credulity of mankind.

It is true that this want of certainty applies to every grade of offence, and might be urged against every degree of criminal punishment. The argument predecated on it is intended, however, to be applied only in favor of human life, and in every other case it loses its efficacy; because society may fine and imprison its members, she may brand with infamy, or forever disfranchise them, on presumptions which their own follies or misfortunes have created. These punishments are all confined to their short stay and pilgrimage on earth, and whether rightfully or wrongfully inflicted, is of little consequence in the view of that endless existence which awaits them after death. But as she gave not our lives and can never restore them, on discovering an error in her judgment, and as its consequences are not confined to the body nor to time, but may run on through eternity, in the ceaseless agony of the soul, nothing short of the most absolute certainty of the most depraved and wicked purpose of heart could justify her in pronouncing the sentence of death. Such, certainly, never has been, and never can be, attained on earth by uninspired mortals, and should only be looked for in heaven, where He sits in judgment, who alone

"can search the hearts, and try the reins of the children of men."

SOME OBJECTIONS TO THE LEGISLATIVE DEPARTMENT.

It often happens that the declared will of the legislature is totally different from its real one, at the time of its enactment. This induces judges to depart from the strict letter of the statute, and to resort to constructions not always correct, and often highly prejudicial to the accused. The vague, and sometimes unintelligible language employed in the penal statutes, and the discordant opinions of elementary writers, gave a color of necessity to this species of judicial legislation. The statute gave the text, and the judges wrote the commentary in letters of blood. The English nation have submitted to the legislation of its courts, and seen their fellow subjects hanged for constructive felonies, quartered for constructive treasons, and roasted alive for constructive heresies, with a patience that would be astonishing even if their written laws had sanctioned butchery.\* In the different States of the American confederacy, the enactment of *ex post facto* laws has been expressly forbidden by Constitutional prohibitions. Yet the evil we now complain of is only half remedied, since the first constructive extension of a penal statute, beyond its letter, is an *ex post facto* law, as it regards the offence to which it is applied.—Thus, what is prohibited in the legislature, is allowed of in the courts, and every day submitted to by the American people. This illegal assumption of legislative powers is referred to, not so much for the purpose of condemnation under the present state of things, as to show that the legislature itself,—the high source of that high law, which is to be the rule of every man's actions,—is a very imperfect and fallible body. Their laws are sometimes so obscure that they cannot be understood by the judges themselves, much less by the plain unlettered yeomanry of the land.

Who would expect to find, under the name of treason, a law punishing with death the crime of counterfeiting! Yet the coining of silver is, by the English law, dignified with that appellation, which properly means nothing less than a conspi-

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\*Livingston's Report.

racy against the life or honor of the king, and the safety of the State! Under the pompous title,—this nicknamed treason,—it obtained an easy passage through Parliament, and soon afterward a poor servant girl, just turned of fourteen, was sentenced to be burnt alive. At her master's bidding she hid some white-washed farthings behind her stays, on which the jury, yielding, no doubt, to the charge of the court, found her guilty as an accomplice with her master in the treason.—“Good God, Sir!” exclaimed an eloquent and humane member of Parliament, “are we taught to execrate the fires of Smithfield, and are we lighting them now to burn a poor harmless child for hiding a white washed farthing?”

When a member of a legislative body introduces a new hanging law, he begins with mentioning some injury or crime, for which a man is not yet liable to be hanged; and then proposes the gallows as the specific and infallible means of cure and prevention. But the bill, in progress of time, from carelessness in dictation, or want of ability in the draftsman, makes crimes capital that scarce deserve whipping. For instance, *the shop-lifting act* was to prevent bankers and silver-smiths, and other shops, where there are commonly goods of great value, from being robbed; but it goes so far as to make it death to lift anything off the counter with intent to steal.

Under this act, one Mary Jones was executed, whose case I shall just mention: It was at a time, when press-warrants were issued on the alarm about the Falkland Islands. The woman's husband was pressed, their goods seized for some debts of his, and she with two small children turned into the streets a-begging. It is a circumstance not to be forgotten, that she was very young (under nineteen) and remarkably handsome. She went to a linen draper's shop, took some coarse linen off the counter and slipped it under her cloak; the shopman saw her and she laid it down. For this she was hanged. Her defence was, that she had lived in credit, and wanted for nothing until a press-gang came, and stole her husband from her; but since then, she had no ~~bed~~ to lie on; nothing to give her children to eat, and they were ~~almost~~ naked; and perhaps she might have done something wrong, for she hardly knew what she did. The parish officers testified the truth of this

story ; but it seems there had been a good deal of shop-lifting about Ludgate ; an example was thought necessary, and this woman was hanged for the *comfort and satisfaction* of shopkeepers in Ludgate street. When brought to receive sentence, she behaved in such a frantic manner, as proved her mind to be in a distracted and desponding state, and the child was sucking at her breast when she set out for Tyburn.

Let us reflect a little on this woman's fate. For what cause was God's creation robbed of this, its noblest work ? It was for no injury, but for a *mere attempt* to clothe her two naked children, by unlawful means. Compare this with what the State did, and with what the law did. *The State* bereaved the woman of her husband, and the children of a father who was all their support. *The law* deprived the woman of her life, and the children of their remaining parent, exposing them to every danger, insult and merciless treatment, that destitute and helpless orphans suffer. Take all the circumstances together, I do not believe a fouler murder was ever committed against law, than the murder of this woman by law. Some, perhaps, are blaming the judges, the jury, and the hangman, but neither judge, jury, or hangman are to blame ; they are but ministerial agents ; the true hangman is your member of Parliament ; he who frames the bloody law, is answerable for all the blood that is shed under it.\*

We have given these two instances as fair samples of that careless and ambiguous legislation which often leads to results which humanity and justice must long deplore. Such legislation often wars against the first principles of our nature, and demands an obedience, under the penalty of death, which it were worse than the most cruel death to render. Take the law of accessories after the fact as an illustration. If the father commit treason, the son must abandon or deliver him up to the executioner. If the son be guilty of a crime, the stern dictates of our law require that his parent—the very mother who bore him—his sisters and brothers, the companions of his infancy, should expel nature from their hearts, and humanity from their feelings—that they should barbarously discover his re-

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\*Sir William Meredith's speech in Parliament on frequent executions.

treat, or with inhuman apathy abandon him to his fate. The husband is even required to betray his wife, the mother of his children; every tie of nature or affection is to be broken, and men are required to be faithless, treacherous, unnatural and cruel, in order to prove that they are good citizens and worthy members of society!\* Now a Legislature that could have first required such things from its subjects, should hardly be considered a safe depository of the lives of its people. And when we reflect how many Parliaments in England, and how many Legislatures in America, have met and adjourned without an attempt to eradicate such unnatural principles from the law, conviction becomes riveted on the mind, that human legislation is so incautious and negligent that it should never extend to the extinction of human life.

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CAPITAL PUNISHMENTS NOT THE MOST EFFECTUAL IN DETERRING OTHERS FROM THE COMMISSION OF CRIME.

Criminal jurisprudence, for several ages at least, has been very far in the rear of public opinion. The use of torture, the trial by battle, the drowning of witches, and burning of heretics, was never abolished in England until long after public sentiment had denounced such cruel spectacles. The Inquisition struggled hard, and down to our times, succeeded in maintaining its fires and its faggots, in despite of the maledictions of nearly the whole civilized world. The older States of the Union could, no doubt, furnish many examples illustrating the justice of the remark.

If, however, criminal legislation does not adapt itself immediately to the general state of public sentiment, the consequence is that the various officers of the law become less vigilant in the detection of offenders, and the ministers of justice resort to every subtlety and refinement to screen them from a punishment disproportional to their crimes. This may not be true of all the officers and ministers of the law, especially of judges, who for many years before their advancement to the bench, may have been Attorney Generals, or prosecuting counsel for the State; but experience and observation have every where

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\*Livingston's Report.

shown its correctness as to *jurors*, who are taken from the general mass of mankind, and who feel more strongly the prevailing current of humanity and mercy.

This is believed to be the true reason, why so many offenders, whose punishment, on conviction, would be death, so often escape. It is, not the money of the accused that bribes, nor the number and power of his friends that overawe, nor the skill and eloquence of his counsel that seduce public justice from her straight and onward course. No; it is none of these things. It is the gentle voice of humanity, whispering in the ears of the jurors, "this man's life is not lawfully in your power; take it not away lest Heaven should demand it at your hands."

These appeals to the softer and better parts of our nature often operate as a virtual repeal of those bloody statutes whose places are retained in the criminal code long after public opinion will not allow them to be enforced. Because the law-making power will not expressly substitute a milder punishment, such repeals result in the entire acquittal of many offenders, who, though they deserve not to die, ought nevertheless to be compelled to make severe atonement for their crimes. Many are thrown back to commit new ravages on society, who should have been forever shut out from its enjoyments, and compelled to hard labor, for their own, or their family's, or their country's support. But, by insisting on the security of the grave, society often loses even the protection of the prison.

Suppose, however, capital convictions, effected without corruption in the witnesses, without mistakes in the jury, and without errors committed by the court; what effects do they produce, which do not equally result from perpetual slavery? A punishment, to be just, should have that degree of severity only, which is sufficient to deter others. Now, there is no man who would, on the least reflection, put in competition the total and perpetual loss of liberty, with the greatest advantage he could possibly obtain in consequence of a crime. Perpetual slavery, then, has in it all that is necessary to deter the most hardened and determined, as much as the punishment of death. I say it has more. There are many who can look upon death

with intrepidity and firmness; some, through fanaticism, others through vanity that attends us even to the grave; others, from a desperate resolution, either to get rid of their misery or to cease to live; but fanaticism and vanity forsake the criminal in slavery, in chains and fetters, in an iron cage, and despair seems rather the beginning than the end of their misery. The mind, by collecting itself and uniting all its force, can, for a moment, repel assailing grief; but its most vigorous efforts are insufficient to resist perpetual wretchedness.\*

If we look to the executions themselves, what examples do they give? The offender dies either hardened or penitent. We are not to consider what reflections occur to reasonable or good men, but such impressions as are made on the thoughtless, the desperate and the wicked. These men look on the hardened villain with envy and admiration. All that animation and contempt of death, with which heroes and martyrs inspire good men, the abandoned villain feels, in seeing a desperado like himself, meet death with intrepidity. The penitent criminal, on the other hand, often makes the sober villain think in this way: himself oppressed with poverty and want, he sees a man die with that penitence, which promises pardon for his sins here, and happiness hereafter; straight, he thinks, that by robbery, forgery and murder, he can relieve all his wants, and if he be brought so to justice, the punishment will be short and trifling, and the reward eternal. When once a villain turns enthusiast, he is above all law; punishment is his reward, and death his glory.†

If the hanging of a fellow being produce no good effect on the profligate and abandoned, what impression does it make on the minds of the virtuous and orderly part of the community? From some motive, which it is perhaps impossible to specify or define, great crowds will always assemble to witness the terrible and solemn spectacle. At the appointed hour, the condemned victim, seated on his coffin, and surrounded by the swords and spears of the guard, is seen approaching on the slow-moving car of death: he is carried forward in this condi-

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\*Sir William Meredith's Speech in Parliament. 1777.

†Beccaria.

tion, through the immense assembly, until he reaches the scaffold. Here, standing on that narrow isthmus, which separates time from eternity, he makes his last and solemn appeal to the world! He either denies his guilt altogether, or extenuates his crime by referring it to misfortune, or to the vicious example and education of his youth. He next implores the world to do justice to his memory—pronounces the forgiveness of his enemies—drops on his knees in prayer, and calls on all the holy ministers of God to lift up their last supplication to Heaven in his behalf! Oh, at that awful moment, who would not wish, nay, who would not rejoice to see the sword of destruction turned aside, and the angel of mercy overshadowing the trembling and supplicating victim! But, no. He must die—the last act of devotion must be interrupted—the rude grasp of the hangman tells “his hour has come.” His supplicating look implores but a few moments more to fit him for the dreadful change; but it is in vain. He bows his head to the halter, and, soon hangs a lifeless corpse in the midst of a sympathising and sobbing multitude! Let me here ask again, how so sad and mournful a spectacle as this can ever magnify the law or make it honorable? Who, in fact, then thinks of the law but to execrate it, or deplore its hard and barbarous requirements.

If the asseverations of his innocence should obtain credence with the public, or if it should subsequently appear that false testimony, the passions of the moment, or deceiving appearances had effected his conviction, what, then, would not the judge who tried, the jury who rendered the verdict, and the whole community, who saw or heard his tragical end, what would they not all give to have it in their power to restore him to life? Instances like these are of frequent occurrence. The most authentic English records are full of them; many have occurred in the United States, in which the innocence of the sufferers has been clearly demonstrated. A few of such cases do infinitely more harm to the generation in which they occur, than the example of the other capital executions can compensate. They are remembered when all the instances of common cases are forgotten. They go down the stream of tradition. The old, in whose day they occurred, relate them to

their children and grand children, until all the feelings of nature are arrayed against the laws of the country and those who administered them.

Society, by punishing the higher offences only with death, has retained it in many of those very cases to which it is the least appropriate, and, therefore, the least efficacious in preventing them. The traitor is prompted by ambition to overturn the liberties of his country. Will the fear of death drive the big passion back into his bosom, or arrest his progress in the moment of expected triumph? If so, why did an Arnold go over to the enemy, or a Burr seek to dismember our Union? Could the one have been commander in chief of our armies, and the other the President of the republic—they would not now “be damned to everlasting fame” as the only recreants, in half a century, to the cause of liberty in the new world. Such men cannot submit to the restraints of society. Compel them to undergo the confinements of a prison; from the expectation of filling the high places of the earth, with Princes and nobles in attendance, bring them down to the humble vassals of the turnkey that nightly locks them within their solitary cells. Perpetual degradation like this, would do more toward suppressing their high and vaulting spirits, than the fear of death, “which men always behold in distant obscurity.”

How can the fear of death be efficacious in preventing murder by duelling? Has not the culprit braved death even in the very act of committing his offence? Why then expect him to dread it at the end of a rope, who feared it not at the mouth of the pistol! Such modern barbarians risk their lives, “that they may keep their places in society.” Counteract their vain expectations, by compelling them to take their places *out of society*—force them to exchange their pistols for the sledge hammer, and their small swords for the pegging awl, and you will have done more towards preserving the lives of our Decaturs and Hamiltons, than all the gibbets ever erected in America. There is another crime which the sentiments of mankind more universally require should be capitally punished than any other; but even this is prompted by brutal passions which are proverbially regardless of consequences, and whose repetition can be guarded against by amputation, as effectually as

by calling in the aid of that universal specific, death. The surgeon, and not the executioner, is all that society needs in this case; but a decent respect to the feelings of those who have been outraged, and a proper regard to the example on others, require a perpetual exclusion from the walks of civilized life—a subjection to the coarse diet, the hard lodging, and the incessant labor of imprisonment for life.

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THE SAME SUBJECT CONTINUED.

If to reasoning, such as we have resorted to, be added, the recorded testimony of competent witnesses, whose situation enables them to make correct observations, but little doubt can remain as to the inefficacy of capital punishment. In England a great portion of the eloquence and learning, and all the humanity of the age, are at work in an endeavor to restrict the punishment of death to the more atrocious offences. This has produced a parliamentary enquiry, in the course of which the examination of witnesses was taken before a committee of the House of Commons. We make the following extract from the testimony of a solicitor who had practiced for more than twenty years in the criminal courts: "In the course of my practice, I have found that the punishment of death has no terror on a common thief—indeed, it is much more the subject of ridicule among them than of serious deliberation. The certain approach of an ignominious death does not seem to operate upon them; for after the warrant has come down, I have seen them treat it with levity. I once saw a man for whom I had been concerned the day before his execution, and, on offering him condolence, and expressing my concern at his situation, he replied with an air of indifference, 'players at bowls must expect rubbers';—and this man I heard say, 'that it was only a few minutes—a kick and a struggle, and all was over.' The fate of one set of culprits, in some instances, had no effect, even on those who were to be next reported for execution: they play at ball, and pass their jokes as if nothing was the matter. I have seen the last separation of persons about to be executed: there was nothing of solemnity about it, and it was more like the parting for a country journey than taking their last farewell. I mention these things to show what little

fear common thieves entertain of capital punishments; and that, so far from being arrested in their wicked courses, by the distant possibility of its infliction, they are not even intimidated by its certainty."

The ordinary of Newgate, a witness better qualified than any other to give information on this subject, being asked—"have you made any observations as to the effect of the sentence of death upon the prisoners?" answers: "it seems scarcely to have any effect upon them; the generality of people under sentence of death are thinking, or rather doing any thing than preparing for their latter end." Being interrogated as to the effects produced on the minds of the people by capital executions, he answers: "I think shock and horror at the moment, upon the inexperienced and young, but immediately after the scene is closed, forgetfulness altogether of it, leaving no impression on the young and inexperienced. The old and experienced thief says, the chances have gone against the man who has suffered, that it is of no consequence, that it was what was to be expected; making no serious impression upon the mind. I have had occasion to go into the press-yard within an hour and a half after an execution, and I have found them amusing themselves, playing at ball or marbles, and appearing precisely as if nothing had happened."

Another of these respectable witnesses (a magistrate of the capital) being asked whether he thought that capital punishments had much tendency to deter criminals from the commission of offences, answered: "I do not; I believe it is well known to those who are conversant with criminal associations in this town, that criminals live and act in gangs and confederacies, and that the execution of one or more of their body, seldom has a tendency to dissolve the confederacy, or to deter the remaining associates from the continuance of their former pursuits."

No coloring is necessary to heighten the effect of these sketches. Nothing, it appears to us, can more fully prove the utter inutility of this waste of human life, its utter inefficiency as a punishment, and its demoralizing operation on the minds of the people.

In London and Middlesex, for sixteen years, ending in 1818,

thirty-five persons were convicted of murder, and stabbing with intent to murder, which is an average of a fraction more than two in the year. In the city of New Orleans seven persons suffered for the same crime in the space of four years, which is very little less than the same average; but the population of New Orleans, during the period, did not amount to more than about thirty-five thousand, which is, to that of Middlesex and London, in round numbers, as one to twenty-seven; therefore, the crime of murder was nearly twenty-seven times as frequent in proportion to numbers as in London. Almost the same proportion exists between the whole State, and England and Wales, in relation to this crime; nineteen executions having taken place for murder in the last seven years in Louisiana; one hundred and fifty-four during the seven years ending in 1818, in England and Wales. In London and Middlesex, eight hundred and eighty-five persons were convicted for forgery and counterfeiting, in seven years, ending in 1818. During an equal period seven persons were convicted of the same offences in the whole State, which makes the crime eighteen times more frequent there, in proportion to numbers, than it is here. Six thousand nine hundred and seventy-four convictions for larceny took place in the same period in London, and for the like period in Louisiana, one hundred; which is near ten to one more there than here, in proportion to the population. I well know that the state of society in the two countries—the degree of temptation—the ease or difficulty of obtaining subsistence and other circumstances, as well as the operation of laws, may produce the difference I have shown; but does it not raise serious doubts as to the efficacy of capital punishments, to observe this double effect, that almost the only crime which we punish in that manner, is more frequent in proportion of twenty-seven to one, whilst those which are the object of a milder sanction, are almost in the same ratio less than the country with which we make the comparison.

The laws of none of the States punish highway robbery with death. Those of the United States affix this punishment to the robbery of the mail, under the circumstances that generally accompany it. Yet it is believed that this last species of highway robbery is more frequent than the other—another

proof that the fear of death is not a more powerful preventive of crime than other punishments.\*

The experience of almost every civilized nation ought to settle this question. Great Britain is said to have reduced the number of her capital offences from about two hundred to something like twenty—and no respectable writer which I have met with, has ever pretended that those offences, the punishment of which had been ameliorated, had become more frequent or alarming to society. If abolishing the punishment of death in about one hundred and seventy or eighty cases out of two hundred has not had such an effect, what reason can there be for believing it would do so as to the remaining twenty? The experiments made in the United States clearly show, that the number may be greatly reduced below twenty, without injury to society. Here, the general, if not universal sentiment prevails, that the punishment of death should be confined to treason, murder and rape—and in but few of the States is it extended beyond these offences on the first conviction. In some States, however, arson, counterfeiting money, kidnapping, &c., are so punished. We submit it as a general remark, that the number of offences punished by death, in the United States, averaging all the States of the Union, would not exceed one-third of the number punished capitally in England. Why then should either nation, after running this race of humanity together, stop short of that goal which alone is worth contending for—universal abrogation of the punishment of death? Why should either stop in this great work of reformation, when all the experiments they have made in the smaller offences give promise of complete and triumphant success? The example of other nations, who have made the experiment, invite them to its completion. In republican Rome, for the long period of two hundred and fifty years, before her institutions were swept away by the imperial power, it was not lawful to put a Roman citizen to death. And the historian has never asserted that crimes were multiplied by it during that time. In Russia, the Empress Elizabeth, for twenty years, abolished the punishment, and her successor, Catharine the Second, under

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\*Livingston's Report to the Legislature of Louisiana.

a full persuasion of its being useless, also gave orders to those who were about to frame a new code of laws for her empire, to abolish it altogether. About the same time (probably a few years after) that Elizabeth made her experiment in the north, the Duke of Tuscany renewed it in the south; and after trying it for twenty years, no doubt watching its effects with the most vigilant eye, he declares, "that atrocious offences had become very rare, and the lesser ones greatly diminished." It is said that, during those twenty years, only five murders were committed within his dominions; whilst in Rome, whose inhabitants have the same manners, principles and religion with those of Tuscany, the number would amount to many hundreds. The abolition of death alone as a punishment for murder, produced this difference in the moral character of the two nations.\*

MR. LIVINGSTON'S REFUTATION OF THE USUAL ARGUMENTS URGED  
AGAINST ABOLISHING THE PUNISHMENT OF DEATH.

Let us examine those reasons which are usually given on the affirmative side of this interesting question:

First. There are those who support it by argument drawn from religion. The divine spirit infused into the great legislator of the Jews, from whose code these arguments are drawn; was never intended to inspire a system of universal jurisprudence. The theocracy given as a form of government to that extraordinary people, was not suited to any other; as little was the system of their penal laws given on the mysterious mountain, promulgated from the bosom of a dark cloud, amid thunder and lightning; they were intended to strike terror into the minds of a perverse and obdurate people; and as one means of effecting this, the punishment of death is freely denounced for a long list of crimes; but the same authority establishes the *lex talionis* and other regulations, which those who quote this authority would surely not wish to adopt. They forget that the same Almighty author of that law, *at a later period*, inspired one of his prophets with a solemn assurance, and affirmed it with an awful asseveration,—"as I live saith the Lord,

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\*Rush's Essays.

I have no pleasure in the death of a sinner, but rather that he should turn from his wickedness and live." They forget, too, although they are Christians who use this argument, that the divine author of their religion expressly forbids the retaliatory system, on which the punishment of death for murder is founded; they forget the mild benevolence of his precepts, the meekness of his spirit, the philanthropy that breathes in all his words and directed all his actions; they loose sight of that golden rule, which he established, "to do nothing to others, that we would not desire them to do unto us;" and certainly pervert the spirit of his holy and merciful religion, when they give it as a sanction for sanguinary punishments. Indeed, if I were inclined to support my opinion by arguments drawn from religion, the whole New Testament should be my text, and I could easily deduce from it authority for a system of reform as opposed to one of extirpation.

Secondly. The practice of all nations, from the remotest antiquity, is urged in favor of this punishment; the fact, with some exceptions, is true; but is the inference just? There are general errors, and, unfortunately for mankind, but few general truths, established by practice, in government and legislation. Make this the criterion, and despotism is, by many thousand degrees, on the scale of antiquity, better than a representative government: the laws of Draco were more ancient than those of Solon, and consequently better; and the practice of torture quite as generally diffused, as that of which we are now treating. Idolatry in religion, tyranny in government, capital punishments and inhuman tortures in jurisprudence, are coeval and co-extensive. Will the advocates of this punishment admit the force of their argument in favor of all these abuses? If they do not, how will they apply it to the one for which they argue?

The long and general usage of any institution gives us the means of examining its practical advantages or defects; but it ought to have no authority as a precedent until it be proved that the best laws are the most ancient, and that institutions for the happiness of the people are the most permanent and most generally diffused. But this, unfortunately, cannot be maintained with truth; the melancholy reverse forces convic-

tion on our minds. Everywhere, with but few exceptions, the interest of the many has, from the earliest ages, been sacrificed to the power of the few. Everywhere, penal laws have been framed to support this power, and those institutions, favorable to freedom, which have come down to us from our ancestors, form no part of any original plan; but are isolated privileges, which have been wrested from the grasp of tyranny, or which have been suffered, from inattention to their importance, to grow into strength.

Every nation in Europe has, during the last eight or ten centuries, been involved in a continued state of internal discord or foreign war: Kings and nobles continually struggling for power, both oppressing the people, and driving them to desperation and revolt. Different pretenders asserted their claims to the throne of deposed or assassinated Kings; religious wars, cruel persecutions, partition of kingdoms, cessions of provinces, succeeding each other with a complication and rapidity that defies the skill and diligence of the historian to unravel and record. Add to this the ignorance in which the human mind was involved during the early and middle part of this period; the intolerant bigotry, which, from its close connection with government, stifled every improvement in politics, as well as every reformation in religion, and we shall see a state of things certainly not favorable for the formation of wise laws on any subject; but particularly ill calculated for the establishment of a just or humane criminal code. From such legislators, acting in such times, what could be expected but that which we actually find—a mass of laws, unjust, because made solely with a view to support the temporary views of a prevailing party; unwise, obscure, inhuman, inconsistent, because they were the work of ignorance, dictated by interest, passion and intolerance. But it would scarcely seem prudent to surrender our reason to authorities thus established, and to give the force of precedent to any of the incoherent collections of absurd, cruel and contradictory provisions, which have been dignified with the name of penal codes, in the jurisprudence of any nation of Europe, as their laws stood prior to the last century. No one would surely advise this; why then select any part of the mass and recommend it to us, merely because

'it has generally been practiced? If there is any other reason for adopting it, let that be urged, and it ought to have its weight; but my object here is to show, that from the mode in which the penal laws of Europe have, until a very late period, been established, very little respect is due to them merely on account of their antiquity, or of the extent to which they have prevailed. If the criminal jurisprudence of the modern and middle ages affords us little reason to revere either its humanity or justice, the ancient world does not give us more. The despotism of antiquity was like that of modern times, and such as it will always be; it can have but one character, which the rare occurrence of a few mild or philosophic monarchs does not change.

The third and last argument I have heard urged, is nearly allied to the second; it is, the danger to be apprehended from innovation. I confess I always listen to this objection with some degree of suspicion. That men who owe their rank, their privileges and emoluments, to abuses and impositions originating in the darkness of antiquity, and consecrated by time, that such men should preach the danger of innovations I can well conceive; the wonder is, that they can find others weak and credulous enough to believe them. But in a country where these abuses do not exist; a country whose admirable system of government is founded wholly on innovation; where there is no antiquity to create a false veneration for abuses, and no apparent interest to perpetuate them; in such a country this argument will have little force against the strong reasons which assail it. Let those, however, that honestly entertain this doubt, reflect that most fortunately for themselves and for their posterity, they live in an age of advancement: not an art, not a science, that has not in our day made rapid progress toward perfection. The one of which we now speak has received and is daily acquiring improvement. How long is it since torture was abolished? Since judges were made independent? Since personal liberty was secured, and religious persecution forbidden? All these were, in their time, innovations as bold at least as the one now proposed. The true use of this objection, and there I confess it has force, is to prevent any hazardous experiment, or the introduction of any change that is not

strongly recommended by reason. I desire no other test for the one that is now under discussion, but I respectfully urge, that it would be unwise to reject it merely because it is untried, if we are convinced it will be beneficial. Should our expectations be disappointed, no extensive evil can be done; the remedy is always in our power. Although an experiment, it is not an hazardous one, and the only enquiry seems to be, whether the arguments and facts stated in its favor are sufficiently strong to justify us in making it. Indeed, it appears to me, that the reasoning might, with some propriety, be retorted against those who use it, by saying, "all punishments are but experiments to discover what will best prevent crimes; your favorite one of death has been fully tried. By your own account, all nations, since the first institution of society, have practiced it, but yourself must acknowledge, without success. All we ask then is, that you abandon an experiment which has for five or six thousand years been progressing under all the variety of forms which cruel ingenuity could invent, and which in all ages, under all governments, has been found wanting. You have been obliged reluctantly to confess that it is inefficient, and to abandon it in minor offences; what charm has it then, which makes you cling to it in those of a graver cast? You have made your experiment; it was attended in its operation with an incalculable waste of human life; a deplorable degradation of human intellect; it was found often fatal to the innocent, and it very frequently permitted the guilty to escape. Nor can you complain of any unseasonable interference with your plan, that may account for its failure; during the centuries that your system has been in operation, humanity and justice have never interrupted its course; you went on in the work of destruction, always seeing an increase of crime, and always supposing that increased severity was the only remedy to suppress it; the mere forfeiture of life was too mild; tortures were superadded, which nothing but the intelligence of a fiend could invent, to prolong its duration and increase its torments; yet there was no diminution of crime, and it never occurred to you, that mildness might accomplish that which could not be effected by severity." This great truth revealed itself to philosophers, who imparted it to the

people; the strength of popular opinion at length forced it on Kings, and the work of reformation, in spite of the cry against its novelty, began. It has been progressive. Why should it stop, when every argument, every fact, promises its complete success? We could not concur in the early stages of this reformation; perhaps the credit may be reserved to us of completing it.\*

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\* Livingston's Report to the Legislature of Louisiana.







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